

Voir Dire

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1  
2 told you would make -- effect you in this  
3 particular trial?

4 PROSPECTIVE JUROR: No.

5 MR. SCHECTER: Be fair and impartial?

6 PROSPECTIVE JUROR 7: Yes, I will.

7 MR. SCHECTER: If the People's proof is  
8 deficient, you have a reasonable doubt, I don't  
9 put on any witness, do you have any problem  
10 standing up and saying not guilty?

11 PROSPECTIVE JUROR 7: No.

12 MR. SCHECTER: And, Miss Pusung, do you have  
13 any problems up to now?

14 PROSPECTIVE JUROR 8: No.

15 MR. SCHECTER: People's proof is deficient,  
16 any problem standing up and saying not guilty?

17 PROSPECTIVE JUROR 8: No.

18 MR. SCHECTER: Mr. Hsu, any problems if the  
19 People's proof is deficient to say not guilty  
20 even if I don't put on any witnesses?

21 PROSPECTIVE JUROR 9: Like I already  
22 mentioned, I would base upon what I hear, what I  
23 listen and what my knowledge is.

24 MR. SCHECTER: Miss Benton, any problems with  
25 any of the concepts up to now?

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1  
2 PROSPECTIVE JUROR 10: No.

3 MR. SCHECTER: You say you have friends who  
4 are police officers?

5 PROSPECTIVE JUROR 10: Yes.

6 MR. SCHECTER: Do they discuss with you their  
7 work?

8 PROSPECTIVE JUROR 10: Not in detail.

9 MR. SCHECTER: It won't effect you?

10 PROSPECTIVE JUROR: No.

11 MR. SCHECTER: What type of crime?

12 PROSPECTIVE JUROR: I was attacked by a  
13 homeless person.

14 MR. SCHECTER: Were you sexually assaulted?

15 PROSPECTIVE JUROR: No.

16 MR. SCHECTER: Was anyone ever arrested?

17 PROSPECTIVE JUROR 10: No.

18 MR. SCHECTER: Would that affect your  
19 deliberations in this particular case?

20 PROSPECTIVE JUROR 10: No.

21 MR. SCHECTER: Anything that you've heard up  
22 to now that would make you not want to sit on  
23 this jury?

24 PROSPECTIVE JUROR 10: No.

25 MR. SCHECTER: Let me just one thing in

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conclusion. If anyone wants to sit on a jury, does anyone feel that something has not been brought out that we should know that would help us make a determination about your qualifications for a juror?

Anyone have any problem about standing up and saying not guilty? Thank you all.

THE COURT: Excuse us for a few moments. You can consult with your client.

(The following takes place in the robing room outside the presence of the defendant and the jury)

COURT CLERK: First juror, Mentovay, challenge for cause?

MR. KESSLER: No.

COURT CLERK: Defense?

MR. SCHECTER: No.

THE COURT: Perempt, people?

MR. KESSLER: Yes.

COURT CLERK: Next juror, Kilgore, cause?

MR. KESSLER: I thought we discussed with the woman -- says she has a problem sitting more than twenty minutes.

THE COURT: She said twenty, twenty five

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minutes.

MR. SCHECTER: It may be a problem if you have a witness on the stand.

MR. KESSLER: I happen to agree.

THE COURT: I'll allow it.

COURT CLERK: No objections.

THE COURT: Number three, Gerke, cause?

MR. KESSLER: No.

MR. SCHECTER: No.

THE COURT: Perempt?

MR. KESSLER: Yes.

COURT CLERK: Edward Ng, challenge for cause?

MR. KESSLER: No.

MR. SCHECTER: No.

THE COURT: Perempt?

MR. KESSLER: No.

THE COURT: Perempt?

MR. SCHECTER: Yes.

THE COURT: Sonia Mejias, cause?

MR. KESSLER: Yes.

MR. SCHECTER: Consent.

THE COURT: Miss Sullivan, cause?

MR. KESSLER: No.

THE COURT: Defense?

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1  
2 MR. SCHECTER: No.

3 COURT CLERK: Perempt?

4 MR. KESSLER: No.

5 COURT CLERK: Defense?

6 MR. SCHECTER: Yes.

7 COURT CLERK: Carmela Kutney, cause?

8 MR. KESSLER: No.

9 MR. SCHECTER: No.

10 COURT CLERK: Perempt?

11 MR. KESSLER: No.

12 COURT CLERK: Perempt?

13 MR. SCHECTER: She's acceptable.

14 COURT CLERK: We have twelve jurors.

15 THE COURT: Next?

16 COURT CLERK: Next three, challenge for  
17 cause, people.

18 MR. KESSLER: Pusung for cause, no, no.

19 MR. SCHECTER: No cause.

20 THE COURT: Perempt?

21 MR. KESSLER: No.

22 COURT CLERK: Perempt?

23 MR. SCHECTER: Perempt.

24 THE COURT: Mr. Hsu, cause, people?

25 MR. KESSLER: No.

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1  
2 COURT CLERK: Cause, defense?

3 MR. SCHECTER: Yes. He gave very equivocal  
4 answers, your Honor.

5 MR. KESSLER: I have to agree, when I  
6 understood him. I think that's the problem.

7 THE COURT: With the language? He's a  
8 financial consultant. I'm not going to go by  
9 language.

10 MR. SCHECTER: He was very equivocal when he  
11 said he had to hear both sides.

12 THE COURT: Bottom line he said he'd be a  
13 fair juror, listen to all of the evidence in the  
14 case and make his decision based upon common  
15 sense and his experience.

16 MR. SCHECTER: When I asked him whether he  
17 would hold it against my client if he didn't call  
18 any witness. He then said I would ask questions  
19 and everything else, your Honor, never saying,  
20 that he wouldn't hold it against my client.

21 THE COURT: Look. You want to excuse him, I  
22 got all the time in the world, fellows. You want  
23 to go another three days picking a jury? He's  
24 excused. It's okay.

25 MR. SCHECTER: I challenge him for cause.

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I'll say this --

THE COURT: You excused pretty good jurors in my opinion.

Any objection by the People?

MR. KESSLER: No.

COURT CLERK: Miss Benton, cause?

MR. KESSLER: No.

MR. SCHECTER: No.

COURT CLERK: Perempt?

MR. KESSLER: No.

COURT CLERK: Perempt?

MR. SCHECTER: No.

COURT CLERK. We have alternate number one.

THE COURT: We are going to swear in this one juror. Then I'm going to take those two into the jury room where the other jurors are with the Court Reporter AND counsel and I'm going to excuse them with the admonitions they shouldn't discuss the case. I have to do that in the presence of the defendant.

(The following occurs in open court)

COURT CLERK: Carmela Kutney and Miss Benton remain seated. All other jurors, you're excused for this evening. Return to central jury. All

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1  
2 right. Only remaining seated are Miss Kutney and  
3 Miss Benton.

4 COURT CLERK: Remaining two jurors acceptable  
5 to the attorneys?

6 MR. KESSLER: Yes.

7 MR. SCHECTER: Yes.

8 (Whereupon, 1 regular juror and 1 alternate  
9 juror was duly sworn by the Clerk of the Court)

10 THE COURT: Would you escort these jurors  
11 with the other jurors, please?

12 Don't discuss the case among yourself or with  
13 the other jurors. Thank you.

14 Fill the box.

15 COURT CLERK: First seat, Robert Neal,  
16 N-e-a-l. Two, Sheri Glazer, G-l-a-z-e-r. Donald  
17 Cocheo, C-o-c-h-e-o. First name Donald. Laurie  
18 Carlson, C-a-r-l-s-o-n. Linda Saltzman,  
19 S-a-l-t-z-m-a-n. Virgilio Capolupo,  
20 C-a-p-o-l-u-p-o. Marisa Birmingham,  
21 B-i-r-m-i-n-g-h-a-m.

22 THE COURT: While you're waiting please  
23 examine these questionnaires so you'll have the  
24 answers.

25 COURT CLERK: Linda Kaplan, K-a-p-l-a-n.



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Marie Baccarella, B-a-c-c-a-r-e-l-l-a. First name Marie. Malvina Kluger, K-l-u-g-e-r, first name, M-a-l-v-i-n-a.

COURT CLERK: Ten potential jurors.

THE COURT: Ladies and gentlemen, would you please do as the other jurors did, give us the number of the question you're answering. First six have to be answered with a specific answer, the others yes or no.

Start with you, sir.

PROSPECTIVE JUROR 1: One, 62. Two, Astoria, Queens. Retired, nursing assistant.

THE COURT: Give us the number.

He HAS to write the number down so the record will show.

PROSPECTIVE JUROR 1: Number four, divorced. High school, number five. Number six, I have NO spouse, no children. Seven, no. Eight, no. Nine, no. Ten, no. Eleven, no. Twelve, no. Thirteen, no. Fourteen, yes. Fifteen, no. Sixteen, yes.

THE COURT: Thank you. Next.

PROSPECTIVE JUROR 2: One, 23. Two, Bayside, Queens. Three, administrative assistant

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1  
2 for a known profit organization. Four, single.  
3 Five, I have BA in biology. Six, I don't have  
4 any spouse nor children. Seven, yes. This  
5 summer of '94 there was a case, not in this  
6 state.

7 THE COURT: In another state?

8 PROSPECTIVE JUROR 2: Yes, your Honor.  
9 Number eight, no. Nine, yes. Ten, no. Eleven,  
10 no. Twelve, no. Thirteen, no. Fourteen, no.  
11 Fifteen, no. Sixteen, yes.

12 THE COURT: Thank you. Next.

13 PROSPECTIVE JUROR 3: Number one, 35. Two,  
14 Astoria. Three, bridge and tunnel maintenance.  
15 Four, married. I have six months of college.  
16 Number six, my wife is a terminal service also in  
17 the airport. Seven, is no. Eight is yes.  
18 Number nine is no. Ten is no. Eleven is no.  
19 Twelve is no. Thirteen is no. Fourteen is no.  
20 Fifteen, no. Sixteen no.

21 PROSPECTIVE JUROR 4: One, 29. Two, Middle  
22 Village. Three, administrative assistant. Four,  
23 divorced. Five, I currently attend college at  
24 night. Six, I don't have any. Seven, no.  
25 Eight, yes. Nine, yes. Ten, yes. Eleven, no.

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Twelve, no. Thirteen, no. Fourteen, no.  
Fifteen, no. Sixteen, yes.

THE COURT: Thank you. Next.

PROSPECTIVE JUROR 5: one, 45. Two,  
Astoria. Three, editor in chief. Four, mother.  
Five, graduate school. Six, lawyer. Infant  
child. Seven, yes, about ten years ago, case was  
fraud. Eight, yes. Nine, yes. Ten, no.  
Eleven, yes. Twelve, no. Thirteen, no.  
Fourteen, no. Fifteen, no. Sixteen, yes.

PROSPECTIVE JUROR 6: One, 55. Two, Bayside,  
Queens. Retired, three. Four, divorced. Five,  
I graduated high school. They have clerical  
jobs, number six. Seven, I never served on a  
jury. Eight, I have no.

THE COURT: Just answer yes or no.

PROSPECTIVE JUROR 6: Eight is no, Nine is  
no. Ten is no. Eleven is no. Twelve is no.  
Thirteen no. Fourteen is no. Fifteen is no.  
Sixteen is no.

THE COURT: Thank you.

PROSPECTIVE JUROR 7: Number one, 26. Two.  
Kew Gardens Hills. Three, technical assistant.  
Four, single. Five, one year of college. Number

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six, not applicable. Seven, no. Eight, yes.  
Nine, no. Ten, yes. Number eleven, -- excuse  
me, number ten is no. Number eleven is yes.  
Twelve, no. Thirteen, no. Fourteen, no.  
Fifteen, no, sixteen, yes.

PROSPECTIVE JUROR 8: One, 42. Two, Little  
Neck. Three, occupational therapist. Four  
divorced. Five, four years of college. Six not  
applicable. Seven, no. Eight, no. Nine, yes.  
Ten, no. Eleven, no. Twelve, no. Thirteen, no.  
Fourteen, no. Fifteen, no. Sixteen, no.

THE COURT: Next.

PROSPECTIVE JUROR 9: One, 58. Two, Bayside,  
Queens. Three, housewife. Four, married. Five,  
12th grade. Six, retired. I have a son who's an  
electrical assistant and one a window cleaner.  
Seven, no. Eight is no. Nine is no. Ten is  
yes. Eleven is yes. Twelve is no. Thirteen is  
no. Fourteen is no. Fifteen is no. Sixteen,  
yes.

PROSPECTIVE JUROR 10: One, 48. Two, Kew  
Gardens, Queens. Three, researcher. Four,  
married. Five, college graduate. Six, my  
husband is a neuropsychologist and I have an

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eleven year old. Seven, no. Eight, no. Nine,  
yes. Ten, no. Eleven, yes. Twelve, no.  
Thirteen, no. Fourteen, no. Fifteen, no.  
Sixteen, yes.

THE COURT: Thank you.

Mr. Kessler?

VOIR DIRE EXAMINATION

BY: MR. KESSLER:

MR. KESSLER: Afternoon everyone. My voice  
is gone so I won't be speaking to long. Welcome  
to an American Court of law. I'm Scott Kessler  
and I'm an Assistant District Attorney. I work  
for Richard Brown. I'll ask some questions. If  
at any time you want to answer my questions in  
private you can answer them at side bar.

I think everyone has listened to some of the  
questions I was asking the other jury members.

Police Kluger?

PROSPECTIVE JUROR 10: Yes?

MR. KESSLER: You heard me ask some of the  
other members of the panel members do you have  
any problems with the concept I was talking  
about?

PROSPECTIVE JUROR: No.

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1  
2 MR. KESSLER: Have you ever spoken to a woman  
3 about rape before?

4 PROSPECTIVE JUROR: Personally experienced  
5 rape?

6 MR. KESSLER: Them telling you they were  
7 raped?

8 PROSPECTIVE JUROR 10: No.

9 MR. KESSLER: Do you have any preconceived  
10 notion of what a woman who was raped should  
11 appear like on the stand?

12 PROSPECTIVE JUROR: No.

13 MR. KESSLER: I wanted to know if anyone  
14 discussed it in real life? It's not the movies  
15 or T.V. Any problem being fair and impartial?

16 PROSPECTIVE JUROR 10: I don't believe so.

17 MR. KESSLER: What do you think we are  
18 looking for in terms of jurors?

19 PROSPECTIVE JUROR 10: Someone who could  
20 listen to the facts and make a fair decision.

21 MR. KESSLER: Think you can do that?

22 PROSPECTIVE JUROR 10: Believe so.

23 MR. KESSLER: If I prove to you the  
24 defendant's guilt beyond a reasonable doubt  
25 what's your verdict going to be?

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PROSPECTIVE JUROR 10: Guilty.

MR. KESSLER: If I fail to prove his guilt?

PROSPECTIVE JUROR 10: Not guilty.

MR. KESSLER: Can you let the cards fall as they may?

PROSPECTIVE JUROR 10: Believe so.

MR. KESSLER: At the end of this case someone comes up to you in the jury room says, you know, I believe the defendant is guilty as charged. I look over there, he doesn't look like someone who would do that something that like, what would you say?

PROSPECTIVE JUROR: I don't think that's a fair decision.

MR. KESSLER: What would you say, Miss Saltzman?

PROSPECTIVE JUROR: I would say nothing.

MR. KESSLER: Do you think there's a particular type of person that would commit a rape?

PROSPECTIVE JUROR 5: No.

MR. KESSLER: Could be any race, religion gender or creed?

PROSPECTIVE JUROR 5: No.

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1  
2 MR. KESSLER: How long have you lived in  
3 Astoria?

4 PROSPECTIVE JUROR 5: All my life with the  
5 exception of about four years when I went TO  
6 Bayside.

7 MR. KESSLER: Went to school there?

8 PROSPECTIVE JUROR 5: NO.

9 MR. KESSLER: Your son is a lawyer?

10 PROSPECTIVE JUROR 5: Husband.

11 MR. KESSLER: What type of law?

12 PROSPECTIVE JUROR 5: Real estate law.

13 MR. KESSLER: Does he ever dabble in criminal  
14 law?

15 PROSPECTIVE JUROR 5: Not so far.

16 MR. KESSLER: Any problem with you being fair  
17 and impartial to both sides?

18 PROSPECTIVE JUROR: No.

19 MR. KESSLER: You said you're an editor in  
20 chief in a magazine?

21 PROSPECTIVE JUROR: Yes, publishing.

22 MR. KESSLER: How long?

23 PROSPECTIVE JUROR: 18 years.

24 MR. KESSLER: Mr. Neal, how are you?

25 PROSPECTIVE JUROR 11: I'm fine.



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1  
2 MR. KESSLER: How are ever been on a jury?

3 PROSPECTIVE JUROR: No.

4 PROSPECTIVE JUROR:

5 MR. KESSLER: Ever served on a grand jury?

6 PROSPECTIVE JUROR: No.

7 MR. KESSLER: Never got your number called?

8 PROSPECTIVE JUROR 11 : Once I've been called  
9 but I haven't served. Several times.

10 MR. KESSLER: What do you think a fair and  
11 impartial juror is? What do you think the  
12 qualities they have?

13 PROSPECTIVE JUROR: Innocent until proven  
14 guilty.

15 MR. KESSLER: Understand I have the burden of  
16 proving his guilt in this case. Let's suppose at  
17 the end of this case I prove to you he's guilty  
18 beyond a reasonable doubt, what's your verdict?

19 PROSPECTIVE JUROR: He's guilty.

20 MR. KESSLER: Any problem with the concept I  
21 was talking to some of the other jury members  
22 about, proving the testimony of one witness  
23 alone? Understand sometimes crimes aren't  
24 committed in front of a lot of people?

25 PROSPECTIVE JUROR 1: Right.

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1  
2 MR. KESSLER: Would you agree with that, Miss  
3 Glazer?

4 PROSPECTIVE JUROR 2: I agree with that.

5 MR. KESSLER: Anything what you heard so far  
6 would cause you to believe you couldn't be fair  
7 to both sides?

8 PROSPECTIVE JUROR 2: No.

9 MR. KESSLER: Mr. Cocheo, you indicated you  
10 wouldn't be fair and impartial to both sides?

11 PROSPECTIVE JUROR 3: No.

12 MR. KESSLER: Mr. Capolupo, you said that as  
13 well?

14 PROSPECTIVE JUROR 6: Yes.

15 MR. KESSLER: And, Miss Kaplan?

16 PROSPECTIVE JUROR 8: Yes.

17 MR. KESSLER: Is that based upon the nature  
18 of the charges or criminal cases in general?

19 PROSPECTIVE JUROR 8: Criminal cases in  
20 general.

21 MR. KESSLER: The same with you?

22 PROSPECTIVE JUROR 3: No, it's what I see.

23 MR. KESSLER: Mr. Capolupo?

24 PROSPECTIVE JUROR 6: It's the rape charges.

25 MR. KESSLER: Is that something based upon

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the background of your family?

PROSPECTIVE JUROR 6: I could never understand it. It's something I would probably go against, more or less as him being guilty.

MR. KESSLER: You're saying just because of the fact it's a rape charge?

PROSPECTIVE JUROR 6: That's the reason, yeah.

MR. KESSLER: Is that the only type of crime?

PROSPECTIVE JUROR 6: Anything else would be no problem.

MR. KESSLER: Any other case wouldn't be a problem?

PROSPECTIVE JUROR 6: Right.

MR. KESSLER: How are you?

PROSPECTIVE JUROR 7: Yes.

MR. KESSLER: What type of work do you do?

PROSPECTIVE JUROR: Re-insurance.

MR. KESSLER: Some friend who are cops?

PROSPECTIVE JUROR: Yes.

MR. KESSLER: Do you ever discuss their work with them?

PROSPECTIVE JUROR 7: Not really.

MR. KESSLER: Any problem with that concept I

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spoke about, one witness?

PROSPECTIVE JUROR 7: No.

MR. KESSLER: Any reason you couldn't be fair  
to both sides

PROSPECTIVE JUROR 7: No.

MR. KESSLER: Miss Carlson, how are you?

PROSPECTIVE JUROR 4: Hi.

MR. KESSLER: How are you? You mentioned at  
one point you knew someone who was accused of a  
crime?

PROSPECTIVE JUROR 4: Yes.

MR. KESSLER: Want to talk about it here or  
side bar, totally your decision?

PROSPECTIVE JUROR 4: It's okay.

MR. KESSLER: Tell me about it?

PROSPECTIVE JUROR 4: My nephew was  
convicted of robbery.

MR. KESSLER: Did you follow that case at all  
for?

PROSPECTIVE JUROR 4: No.

MR. KESSLER: Did you ever speak to him about  
it?

PROSPECTIVE JUROR 4: No.

MR. KESSLER: Do you have an opinion as to

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whether he was guilty?

PROSPECTIVE JUROR 4: I imagine he was guilty.

MR. KESSLER: Anything about that case that would cause you not to be fair in this case?

PROSPECTIVE JUROR: Four.

MR. KESSLER: Were you close to him at all?

PROSPECTIVE JUROR 4: No.

MR. KESSLER: You didn't follow his case?

PROSPECTIVE JUROR 4: No.

MR. SCHECTER: Any problems with the concept I've been talking about?

PROSPECTIVE JUROR 4: No.

MR. KESSLER: You also indicated you knew someone who was accused of a crime as; well, would you like to discuss it side bar?

PROSPECTIVE JUROR: Side bar.

THE COURT: Step up.

(Discussion held at bench off the record.)

THE COURT: Are you having trouble sitting?

A JUROR: Yes.

THE COURT: You can stand up.

MR. KESSLER: Couple of more questions. You indicated you knew some lawyers, Miss Carlson?

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PROSPECTIVE JUROR 4: Friend's husband.

MR. KESSLER: Do you know what type of law?

PROSPECTIVE JUROR 4: Real estate.

MR. KESSLER: I think I'm about done. You indicated you knew some lawyers as well?

PROSPECTIVE JUROR 5: Yes.

MR. KESSLER: A lot?

PROSPECTIVE JUROR: Yes.

MR. KESSLER: Any bad experiences with them?

PROSPECTIVE JUROR: Not as friends, no.

MR. KESSLER: Nothing could sway you about being fair?

PROSPECTIVE JUROR 5: No.

MR. KESSLER: You indicated some of your friends were police officers?

PROSPECTIVE JUROR 7: Yes.

MR. KESSLER: Are they close friends?

PROSPECTIVE JUROR 7: No.

MR. KESSLER: I ask if you're chosen as a juror that you be fair and impartial, both to the people and to the defense. If I prove my case beyond a reasonable doubt I would ask everyone to stand up and find the defendant guilty. If I fail to find him not guilty. Let it be based

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1  
2 upon the evidence, no preconceived notions,  
3 prejudices against any one or sympathy. Everyone  
4 seem fair with that?

5 Thank you your Honor.

6 THE COURT: Mr. Schechter?

7 VOIR DIRE EXAMINATION

8 BY: MR. SCHECTER:

9 MR. SCHECTER: Everyone hear my questions  
10 before when the other people were sitting here?  
11 Anyone have a problem with any of it?

12 Remember I said the burden of proof is on the  
13 District Attorney. We don't have any burden. We  
14 may or may not call any witnesses. We may or may  
15 not take the witness stand. Do you have a  
16 problem with that?

17 PROSPECTIVE JUROR 1: No.

18 MR. SCHECTER: Listen to the evidence, or  
19 lack of evidence, make your decision on that and  
20 that alone?

21 PROSPECTIVE JUROR 1: Yes.

22 MR. SCHECTER: And if you believe the people  
23 failed to sustain their burden, do you have any  
24 problem standing up and saying not guilty?

25 PROSPECTIVE JUROR 1: No, I don't.

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MR. SCHECTER: Anyone have any problems?

Mr. Capolupo, you said you had a problem with the type of crime?

PROSPECTIVE JUROR 6: Yes.

MR. SCHECTER: Anyone else have a problem?

They feels if a female takes the stand they would tend to side with her, they would feel more sympathy for her? Can everyone here promise me that -- anyone feel that they have to hear two sides of a story?

PROSPECTIVE JUROR 4: I think so.

MR. SCHECTER: Well, there's no obligation on my client to take the stand; would you hold that against him if you don't hear him testify?

PROSPECTIVE JUROR 4: No, but I would assume he would tell his side of the story.

MR. SCHECTER: He doesn't have any obligation. I'm not saying he will or will not. Can you put that aside if the Judge tells you to?

PROSPECTIVE JUROR 4: I guess so.

MR. SCHECTER: Unfortunately, guess so, is not quite enough. You have to be able to tell me you can?

PROSPECTIVE JUROR 4: I guess I can.



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1  
2 MR. SCHECTER: Miss Carlson, when you were  
3 talking about your nephew you said he was  
4 probably guilty?

5 PROSPECTIVE JUROR 4: Yes.

6 MR. SCHECTER: Did he plead guilty? Do you  
7 know if he pled guilty or went to trial?

8 PROSPECTIVE JUROR 4: No idea.

9 MR. SCHECTER: What makes you think he was  
10 probably, do you know what happened to him?

11 PROSPECTIVE JUROR 4: He was convicted.

12 MR. SCHECTER: But you don't know whether  
13 that was by a plea or --

14 PROSPECTIVE JUROR 4: No, I don't.

15 MR. SCHECTER: Do you have friends who are  
16 police officers?

17 PROSPECTIVE JUROR 4: Yes.

18 MR. SCHECTER: Close friends?

19 PROSPECTIVE JUROR 4: Yes.

20 MR. SCHECTER: Do they ever discuss with you  
21 their work?

22 PROSPECTIVE JUROR: Sometimes.

23 MR. SCHECTER: Have they given you their  
24 feelings of the criminal justice system?

25 PROSPECTIVE JUROR: No.

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1  
2 MR. SCHECTER: Anything concerning that that  
3 would make you tend to side with the prosecution?

4 PROSPECTIVE JUROR: No.

5 MR. SCHECTER: Thank you. Miss Saltzman, you  
6 have many friends. I'm hoping you didn't say  
7 your husband, you have friends who are police  
8 officers?

9 PROSPECTIVE JUROR 5: Yes.

10 MR. SCHECTER: Close friends?

11 PROSPECTIVE JUROR 5: Yes.

12 MR. SCHECTER: Relatives?

13 PROSPECTIVE JUROR: No.

14 MR. SCHECTER: Good friends, neighbor?

15 PROSPECTIVE JUROR 5: Yes.

16 MR. SCHECTER: Does he ever discuss his work  
17 with you?

18 PROSPECTIVE JUROR: She.

19 THE COURT: See that?

20 MR. SCHECTER: Has she ever discuss her work  
21 with you?

22 PROSPECTIVE JUROR 5: Yes.

23 MR. SCHECTER: Have you gotten any feeling on  
24 the criminal justice system based on your  
25 conversations with her?

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PROSPECTIVE JUROR 5: No.

MR. SCHECTER: My guess is you'll hear police testimony during this trial. If at the end of the case, and my client doesn't take the witness stand, that won't affect you, will it?

PROSPECTIVE JUROR 5: No.

MR. SCHECTER: At the end of the entire case you have a reasonable doubt reasonable doubt, do you have any problems going back there, maybe because of sloppy police work, do you have any problem in finding him not guilty?

PROSPECTIVE JUROR 5: No, no problem.

MR. SCHECTER: You're not going to talk to your husband about this case, are you?

PROSPECTIVE JUROR 5: No.

MR. SCHECTER: You've been the victim of a crime, that wouldn't affect you?

PROSPECTIVE JUROR 5: I wasn't the victim.

MR. SCHECTER: Other member of your family?

PROSPECTIVE JUROR: Yes.

MR. SCHECTER: Will that affect you?

PROSPECTIVE JUROR 5: I don't believe so.

MR. SCHECTER: Can you tell us what type of crime?

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1 PROSPECTIVE JUROR 5: It was a rape.

2 MR. SCHECTER: Close friend?

3 PROSPECTIVE JUROR 5: Cousin.

4 MR. SCHECTER: Did you discuss with her what  
5 happened?

6 PROSPECTIVE JUROR 5: Yes.

7 MR. SCHECTER: A woman takes the witness  
8 stand and says she was molested here, would you  
9 feel because of your cousin -- you would give her  
10 testimony more credibility because of that?

11 PROSPECTIVE JUROR: My empathy would be with  
12 her.

13 MR. SCHECTER: Would you overlook certain  
14 things in her testimony because of that?

15 PROSPECTIVE JUROR 5: Overlook things in her  
16 testimony, no.

17 MR. SCHECTER: You can put that all aside,  
18 whatever it was?

19 PROSPECTIVE JUROR 5: Yes.

20 MR. SCHECTER: If you find her testimony  
21 deficient, would you have any problem standing up  
22 and saying not guilty?

23 PROSPECTIVE JUROR 5: I wouldn't have a  
24 problem with that.  
25

Voir Dire

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1  
2 MR. SCHECTER: Miss Glazer, I believe you  
3 said you've been a juror?

4 PROSPECTIVE JUROR 2: Yes, I have.

5 MR. SCHECTER: That was in --

6 PROSPECTIVE JUROR: In the State of  
7 Massachusetts in Cambridge.

8 MR. SCHECTER: Criminal matter?

9 PROSPECTIVE JUROR: No.

10 MR. SCHECTER: There are different burdens of  
11 proof. You can put that all aside?

12 PROSPECTIVE JUROR 2: I wasn't a trial. It  
13 was little decision that had to be made before  
14 the trial started.

15 MR. SCHECTER: Anything in your background or  
16 anything I've asked up to now make you feel you  
17 can't be fair juror?

18 PROSPECTIVE JUROR 2: No.

19 MR. SCHECTER: Any of your friends he ever  
20 discuss with you your work?

21 PROSPECTIVE JUROR 7: Other than funny  
22 stores, no.

23 MR. SCHECTER: That won't affect you?

24 PROSPECTIVE JUROR 7: No.

25 MR. SCHECTER: You've been the victim of a

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1  
2 crime?

3 PROSPECTIVE JUROR 7: Yes.

4 MR. SCHECTER: Would that affect you one way  
5 or the other?

6 PROSPECTIVE JUROR 7: No.

7 MR. SCHECTER: Be fair and impartial?

8 PROSPECTIVE JUROR 7: Yes.

9 MR. SCHECTER: People's proof is deficient,  
10 any problem standing up and saying not guilty?

11 PROSPECTIVE JUROR 7: No.

12 MR. SCHECTER: Thank you.

13 MR. SCHECTER: Miss Baccarella, when you were  
14 asked the last question for some reason -- can  
15 you be a fair and impartial juror?

16 PROSPECTIVE JUROR 9: Yes.

17 MR. SCHECTER: Anything you've heard up to  
18 now which would change your mind from being fair  
19 and impartial?

20 PROSPECTIVE JUROR: No.

21 MR. SCHECTER: You've been the victim of a  
22 crime?

23 PROSPECTIVE JUROR 9: Yes.

24 MR. SCHECTER: Would that affect you one way  
25 or the other in this case?

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1 PROSPECTIVE JUROR: I don't think so.

2 MR. SCHECTER: What type of crime was it?

3 PROSPECTIVE JUROR: I was mugged twice.

4 MR. SCHECTER: You won't hold it against my  
5 client?

6 PROSPECTIVE JUROR: No.

7 MR. SCHECTER: Miss Kluger, you had friends  
8 who are attorneys?

9 PROSPECTIVE JUROR 10: Yes.

10 MR. SCHECTER: Do any of them do criminal?

11 PROSPECTIVE JUROR 10: No.

12 MR. SCHECTER: You won't discuss whatever  
13 happens here with them during the next few weeks?

14 PROSPECTIVE JUROR 10: No.

15 MR. SCHECTER: Anyone want to tell me  
16 anything they think I should know to let me know  
17 whether you'll be a fair and impartial juror?

18 THE COURT: Consult counsel. Come inside  
19 when you're ready. Excuse us jurors.

20 (The following takes place in the robing room  
21 outside the presence of the defendant and the  
22 jury).

23 COURT CLERK: We need three alternates. We  
24 are going to go through them one at time.  
25

Voir Dire

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1  
2 THE COURT: Yes.

3 COURT CLERK: Robert Neal?

4 MR. KESSLER: No cause.

5 MR. SCHECTER: No cause.

6 THE COURT: Perempt?

7 MR. KESSLER: People.

8 MR. SCHECTER: He's been knocked off the last  
9 five men, especially like Mr. Neal. Has given no  
10 answers to any questions. He wasn't even  
11 questioned. I don't know whether because he's  
12 black or --

13 THE COURT: What do you mean he wasn't even  
14 questioned?

15 MR. SCHECTER: He wasn't asked any questions  
16 that would show any bias, prejudice for or  
17 against the people, against the District  
18 Attorney. Any reason why he was knocking him  
19 off, any of his answers.

20 THE COURT: Do you have a reason?

21 MR. KESSLER: I'm not sure. The reason I  
22 knocked him off I didn't think he could follow  
23 directions. He had a difficulty with the  
24 questionnaire when your Honor was giving it to  
25 him. I think we need jurors that could follow



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the Judge's instructions. He was the only person not following instructions the Court gave him.

THE COURT: All right.

MR. SCHECTER: I disagree with that. I think --

THE COURT: I understand you disagree with it. He did appear to have some hesitancy.

COURT CLERK: Sheri Glazer, cause?

MR. KESSLER: No.

MR. SCHECTER: No.

COURT CLERK: Perempt?

MR. KESSLER: No.

COURT CLERK: Perempt?

MR. SCHECTER: No.

COURT CLERK: Alternate number two, Sheri, S-h-e-r-i G-l-a-z-e-r, alternate number two.

COURT CLERK: Donald Cocheo?

THE COURT: He's for cause. He said he couldn't be fair.

COURT CLERK: Laurie Carlson?

MR. KESSLER: No, no cause.

MR. SCHECTER: When she was talking about her cousin she said she imagined he was guilty. She didn't know if he went to trial, or whatever. I

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1  
2 believe that would show a prejudice. She didn't  
3 know anything about the case or anything else. I  
4 believe she would be --

5 MR. KESSLER: He was guilty.

6 THE COURT: She answered he was guilty  
7 because he was convicted.

8 MR. SCHECTER: He doesn't know whether he was  
9 convicted after trial.

10 THE COURT: What's the difference? We tell a  
11 guy who pleads guilty it's the same as conviction  
12 after a trial.

13 MR. SCHECTER: If pleads guilty they are  
14 guilty. If they go to trial they may still not  
15 be guilty.

16 THE COURT: Once a jury says they are guilty  
17 they are guilty.

18 MR. SCHECTER: I'm asking she be exempt.

19 THE COURT: Not for that reason.

20 Any challenge for cause, defense, on Laurie  
21 Carlson? No cause?

22 COURT CLERK: Perempt?

23 MR. KESSLER: No.

24 COURT CLERK: Perempt?

25 MR. SCHECTER: Yes.

Voir Dire

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1  
2 THE COURT: You can except on the perempt.  
3 Cause?

4 MR. KESSLER: No.

5 MR. SCHECTER: No.

6 THE COURT: Perempt?

7 MR. KESSLER: No.

8 COURT CLERK: Perempt?

9 MR. SCHECTER: Yes, perempt on Saltzman.

10 COURT CLERK: Mr. Capolupo?

11 THE COURT: For cause?

12 MR. KESSLER: Yes.

13 COURT CLERK: No objections?

14 MR. KESSLER: No.

15 MR. SCHECTER: No.

16 COURT CLERK: Marisa Birmingham?

17 MR. KESSLER: No cause.

18 MR. SCHECTER: No cause.

19 COURT CLERK: Perempt?

20 MR. KESSLER: No.

21 COURT CLERK: Perempt?

22 MR. SCHECTER: I'm out of perempts on this  
23 chair. I don't have any more perempts.

24 COURT CLERK: He has no cause for challenge.  
25 Alternate three would be Miss Birmingham.

Voir Dire

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1  
2 COURT CLERK: Kaplan?

3 THE COURT: She says she couldn't be fair.  
4 She's caused off.

5 COURT CLERK: Miss Baccarella, cause, people?

6 MR. KESSLER: No.

7 COURT CLERK: Defense?

8 MR. SCHECTER: No.

9 COURT CLERK: Perempt, people?

10 MR. KESSLER: No.

11 COURT CLERK: Perempt, defense?

12 MR. SCHECTER: Yes.

13 COURT CLERK: Malvina Kluger, cause, people?

14 MR. KESSLER: No.

15 MR. SCHECTER: No.

16 COURT CLERK: Perempt?

17 MR. SCHECTER: No.

18 COURT CLERK: We have alternate number four.

19 THE COURT: I'll give them the preliminary  
20 instructions so we can perhaps get started  
21 tomorrow.

22 (The following occurs in open court;  
23 defendant present)

24 COURT CLERK: Sheri Glazer; Marisa Birmingham  
25 and Malvina Kluger remain seated. If I did not

Voir Dire

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1  
2 call your name you play be excused. Return back  
3 to central jury tomorrow at 9:30.

4 Remaining three jurors acceptable at this  
5 time?

6 MR. KESSLER: Yes.

7 MR. SCHECTER: Yes.

8 COURT CLERK: Shall I swear them in?

9 Jurors, rise.

10 (Whereupon, three alternate juror were duly  
11 sworn by the Clerk of the Court)

12 THE COURT: Bring in the other jurors.

13 COURT OFFICER: Ready for the rest of the  
14 jury?

15 THE COURT: Yes.

16 (The full jury panel entered the courtroom)

17 COURT CLERK: Twelve jurors and four  
18 alternates as seated now acceptable to both  
19 sides?

20 MR. KESSLER: They are.

21 MR. SCHECTER: Yes.

22 COURT CLERK: Shall I swear them in?

23 THE COURT: Yes.

24 COURT CLERK: Please rise and raise your  
25 right hand.

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(Whereupon, a jury of twelve, plus 4 alternates were duly sworn and impaneled by the Clerk of the Court)

THE COURT: Members of the jury, we are about to commence the trial of the case of the People of the State of New York versus Guang Hai Zheng concerning which you heard some detail during the jury selection.

The law requires that the Court give preliminary instructions to the jury and the preliminary instruction and comments that I will make are designed to acquaint you with duties, functions, responsibilities of the Court, counsel and jury and to give you a preview of how the trial should be conducted and proceed to its conclusion. In these instructions I will refer briefly to the rules of law generally applicable to all criminal trials. And may, if necessary, refer to the specific provisions of law which are applicable to this particular case.

In addition, the law requires that the Court at the close of the trial charge and instruct you, the jury, as to your duties and functions in evaluating the evidence in arriving at your final

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1  
2 verdict. The law also requires the Court in its  
3 final charge to instruct the jury as to the laws  
4 applicable to the specific crime or crimes  
5 charged in the indictment which will be submitted  
6 to you for your final determination.

7 Some of the instructions that I will give you  
8 now will be included in my final instructions to  
9 the jury.

10 Now, as I've informed you this is a criminal  
11 case brought upon by an indictment bearing the  
12 title the People of the State of New York versus  
13 Guang Hai Zheng. The People of the State of New  
14 York are represented by the District Attorney of  
15 this County and at this trial the people will be  
16 represented by the Assistant District Attorney,  
17 who you've met during jury selection.

18 Now, although the people are represented by  
19 the District Attorney who is a publish official  
20 doesn't necessarily entitle the people to any  
21 special consideration nor any greater  
22 consideration than the defense attorney.

23 Before discussing the constitutional  
24 safeguards surrounding every person accused of a  
25 crime let me emphasize that an indictment is

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1  
2 simply an accusation required by law solely for  
3 the purpose of informing the defendant of the  
4 offenses to which he's charged. It is simply an  
5 accusation in writing; it's not evidence of  
6 anything. The indictment sets forth allegations  
7 only and is not evidence. The indictment is  
8 merely a device required by law to inform the  
9 defendant of the charges against him and to bring  
10 those charges to trial.

11 We turn now to the constitutional safeguards  
12 surrounding every person accused of a crime. The  
13 defendant has pleaded not guilty to the  
14 indictment. By his plea of not guilty the  
15 defendant puts in issue each and every allegation  
16 charged in the indictment. It's a fundamental  
17 principle of our law that a person accused of a  
18 crime is presumed to be innocent unless the  
19 contrary is proved according to law.

20 The presumption of innocence remains with the  
21 defendant throughout the trial unless and until  
22 the trial jury finds, in its final deliberations,  
23 that the presumption of innocence has been  
24 overcome by proof of guilt beyond a reasonable  
25 doubt.



## Opening/Court

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1  
2 The trial begins with no evidence against the  
3 defendant and the presumption of innocence of the  
4 defendant, standing alone, is sufficient to  
5 require the acquittal of the defendant unless the  
6 jury finds in its final deliberations that the  
7 People have proved to the jury's unanimous  
8 satisfaction beyond a reasonable doubt that the  
9 defendant is guilty of the crime or crimes for  
10 which he is charged.

11 The burden of proof is never on the defendant  
12 to establish his innocence. It is our law to  
13 establish guilt is on the people. The burden is  
14 on the people to establish to your satisfaction  
15 beyond a reasonable doubt every element of each  
16 crime charged, as I shall later define such  
17 elements for you, and that the defendant  
18 committed those crimes.

19 The standard of proof required in every  
20 criminal case is proof of guilt beyond a  
21 reasonable doubt. That standard does not,  
22 however, require that the people prove the  
23 defendant's guilt beyond all possibility of doubt  
24 or beyond a shadow of a doubt. It requires that  
25 the people establish defendant's guilt beyond a

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reasonable doubt.

Our law, therefore, requires that before this jury may convict the defendant each of you must be satisfied that the credible evidence is sufficient to convince you beyond a reasonable doubt that the defendant is, in fact, guilty.

The evidence must satisfy you beyond a reasonable doubt that the defendant is the person who committed the crime or crimes charged.

The evidence must also establish beyond a reasonable doubt each and every essential element of the crime or crimes charged.

What does the law mean when it requires proof of guilt beyond a reasonable doubt? When is a doubt of guilt a reasonable doubt under our law? A doubt of the defendant's guilt to be a reasonable doubt must be a doubt for which some reason can be given. A doubt to be reasonable must, therefore, arise because of the nature and quality of the evidence in the case or from the lack of or sufficiency of the evidence in the case. A doubt to be a reasonable doubt should be one which a reasonable person, acting in a matter of this importance, would be likely to entertain

## Opening/Court

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1 because of the evidence or because of the lack of  
2 evidence or insufficiency of the evidence in the  
3 case. A doubt of guilt is not a reasonable doubt  
4 if instead of being based on the nature and  
5 quality of the evidence or insufficiency of the  
6 evidence, it is based upon some sort of a guess,  
7 or whim or speculation unrelated to the evidence  
8 in the case. A doubt of guilt is not a  
9 reasonable doubt if it is based merely on  
10 sympathy for the defendant or from a mere desire  
11 by a juror to avoid doing what he or she may feel  
12 is a disagreeable duty. A doubt of the  
13 defendant's guilt to be a reasonable doubt must  
14 arise either from the nature and quality of the  
15 evidence in the case or from the lack of or  
16 insufficiency of the evidence in the case.

17  
18 It is the duty of each juror to consider and  
19 weigh all of the evidence in the case and decide  
20 what evidence you believe is credible and worthy  
21 of your consideration. It is the duty of each  
22 juror to determine whether he or she has a  
23 reasonable doubt of the defendant's guilt, as  
24 that term is defined in our law.

25 It is the duty of each juror to carefully

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review and weigh and consider all of the evidence in the case. If after doing so you find that the people have not proved the defendant's guilt beyond a reasonable doubt, as I have defined that term for you, then you must find the defendant not guilty.

On the other hand, if you are satisfied that the people have proved the defendant's guilt beyond a reasonable doubt, as I have defined that term for you, then you must find the defendant guilty.

Now the verdict of a jury in a criminal case must be unanimous. In order for you, the jury, to return a verdict the law requires that all twelve jurors agree upon that verdict. To convict as to any specific charge all twelve jurors must agree that the people have proven the defendant's guilt as to each and every element of such charge beyond a reasonable doubt, and, if so satisfied, they must return a verdict of guilty.

Similarly, if all twelve jurors agree that the people have failed to prove the elements of any specific charge beyond a reasonable doubt, then the jury must return a verdict of not

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1  
2 guilty.

3 In determining your verdict you may not  
4 consider or speculate concerning matters  
5 regarding sentence or punishment. You must not  
6 even discuss such matters, nor should your  
7 deliberations in any way be influenced by such  
8 matters as to sentence or punishment.

9 If you render a verdict of guilty I am  
10 required under the law to impose a sentence in  
11 accordance with the law and the jury has no  
12 function relating to sentence or punishment and  
13 such matters are wholly immaterial to your  
14 deliberations.

15 Following the opening statements witnesses  
16 will be called to the stand and after being sworn  
17 will be examined and cross-examined. You must  
18 concentrate and give careful attention to the  
19 testimony of the witnesses.

20 However, permit me to caution you that some  
21 things you may hear during the trial will not be  
22 evidence and must not, under any circumstances,  
23 be considered by you as evidence in this case.

24 For example, colloquy or discussions or  
25 verbal exchanges between or among the attorneys

## Opening/Court

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1  
2 is not evidence in the case. The same is true of  
3 any colloquy or discussion between the Court and  
4 counsel. Neither the Court nor the attorneys are  
5 witnesses in the case. Whatever discussions we  
6 may have concerning the law is not evidence in  
7 the case. Under no circumstances are you to draw  
8 any inferences one way or another from anything  
9 that may be said during discussions between or  
10 among the attorneys and the Court.

11 The questioning of a witness by the lawyer  
12 calling that witness to the stand is called  
13 direct examination. Questioning of that same  
14 witness by the lawyer on the opposite side is  
15 called cross. There will be times when you will  
16 hear a lawyer object to the asking of a  
17 particular question. That means that that lawyer  
18 making the objection urges that the question is  
19 not a proper question. The Court must then rule  
20 as to whether it is or is it not proper.

21 If I believe, under our rules of evidence,  
22 that the question is a proper one I'll say the  
23 objection is overruled. If I believe that the  
24 objection is a valid objection I will say  
25 "objection sustained." In other words, when I

## Opening/Court

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1  
2 say "objection sustained" I am ruling that the  
3 question is an improper question.

4 When I so rule you, as jurors, must draw no  
5 inference either from my ruling or from the  
6 question itself.

7 When I sustain an objection of a question I  
8 ruled improper, under our rules of evidence you  
9 have no right to draw any inference from the mere  
10 asking of a question. You have no right to draw  
11 any inference from my rulings. This is so  
12 because questions as such are not evidence. Any  
13 rulings which prevent an answer or permits an  
14 answer to a question is made as a matter of law.  
15 And, as I said, you must draw no inferences from  
16 my rulings.

17 There may be times when a witness will answer  
18 a question before the Court has had an  
19 opportunity to rule upon an objection. In such  
20 an event, if I sustain the objection, I will then  
21 direct that the answer be stricken from the  
22 record and that you disregard it. It then  
23 becomes your duty to strike it from your minds  
24 and disregard the fact that the premature answer  
25 was ever given or made.

## Opening/Court

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1  
2 Do not resent the fact that the attorneys  
3 will make objections during the course of the  
4 trial; that's their function.

5 When the Court makes a ruling on motions or  
6 objections, these rulings are based solely upon  
7 the issues of law involved. Thus, you need not  
8 be concerned with the rulings on the law, by the  
9 Court.

10 In your deliberations you may consider only  
11 such evidence that the Court has ruled admissible  
12 and, of course, you must not, under any  
13 circumstances, consider any evidence which the  
14 Court has ruled inadmissible.

15 Please be advised and bear in mind that the  
16 rulings of the Court are simple rulings and under  
17 no circumstances are such rulings to be  
18 considered by you as indication that the Court  
19 has any opinion as to the guilt or innocence of  
20 the defendant.

21 Under our law the Court may not and will not  
22 entertain any opinion as to the guilt or  
23 innocence of the accused. You, jurors, and you  
24 alone are the sole and exclusive judges of the  
25 facts in this case.



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From time to time during the course of the trial various tangible objects, commonly referred to as real evidence, such as perhaps diagrams, maps, sketches or printed or hand-written records or other documents or photographs of persons, places, conditions or real objects such as clothing, tools or furniture, or other things like that, may be offered as exhibits for your inspection and consideration.

The purpose of such exhibits is to enable the Court and the jury to acquire knowledge by direct use of their senses and usually by actually seeing the real evidence.

Whenever any object, photograph or document, that is, real evidence is offered as an exhibit, you will observe that the Court will first direct that the Court Reporter tag that specific exhibit with a number or letter of the alphabet and be marked at that point for identification only.

The initial marking of an exhibit for identification only indicates that the particular exhibit has not been formally accepted, admitted and received into evidence. After the particular exhibit has been properly identified,

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1  
2 authenticated by the testimony of the witnesses,  
3 and after the court is satisfied, as a matter of  
4 law, that the exhibit is admissible and relevant  
5 to the issues upon the trial, then the Court then  
6 directs the exhibit should be marked and such  
7 exhibits will be open to your consideration and  
8 evaluation.

9 Obviously, if I'm not satisfied, as a matter  
10 of law, that the particular exhibit is relevant  
11 and may be properly received in evidence, then  
12 the jury will, of course, will not see and  
13 consider that exhibit.

14 During deliberations in the deliberation  
15 room, if you so request, any or all exhibits  
16 introduced into evidence during the trial, with  
17 the consent of the Court, it will be delivered  
18 for your inspection and consideration.

19 During the trial evidence will probably be  
20 presented in the form of testimony of witnesses,  
21 exhibits and perhaps stipulations. Basically,  
22 there are two kinds of evidence, direct evidence  
23 and circumstantial evidence.

24 Direct evidence is direct proof of a fact,  
25 such as the testimony of an eyewitness.

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1  
2 Circumstantial evidence is proof of a chain of  
3 circumstances from which you may infer or  
4 conclude that a fact exists, even though that has  
5 not been proved directly.

6 You are entitled to consider both types of  
7 evidence. The word infer or the expression to  
8 draw an inference means to find that a fact  
9 exists based upon proof of another fact.

10 The example I usually give is, before you go  
11 to bed in the evening, if you look out the window  
12 and you see the streets are perfectly dry and you  
13 wake up in the morning and you look out the  
14 window and the streets are all wet, you can infer  
15 that it rained during the night.

16 Now, that may explain the presence of water.  
17 Now, there are other explanations which may  
18 explain why there's water in the street other  
19 than rain; a water main may have broken, people  
20 may have watered their lawns. Therefore, in  
21 deciding to draw an inference you must look at  
22 and consider all of the facts with common sense,  
23 and after you have done that the question as to  
24 whether or not as to draw a particular inference  
25 is for you, the jury, to decide.

## Opening/Court

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1  
2 At the close of the trial and following  
3 summations of counsel I will instruct you on the  
4 rules of law applicable to this case and then you  
5 will retire for your deliberations. Your  
6 functions as jurors is to determine what the  
7 facts are and to apply the rules of law as I give  
8 them to you to the facts as you determine them to  
9 be.

10 The conclusion thus reached will be your  
11 verdict. You will determine what the facts are  
12 from all of the evidence in the case. Again, you  
13 and you alone are the exclusive judges of the  
14 facts. In that field neither I nor anyone else  
15 may invade your province. I shall endeavor to  
16 preside impartially and not to express any  
17 opinion concerning the facts. Any views of mine  
18 on the facts would, in any event, would be  
19 totally irrelevant to what you find the facts  
20 are.

21 On the other hand, and with equal emphasis, I  
22 instruct you are bound to accept the rules of law  
23 as I give them to you, whether you agree with  
24 them or not.

25 Now, the law requires that you weigh all of

## Opening/Court

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1  
2 the evidence that the Court receives and admits.  
3 You must make your own evaluation of the  
4 testimony as given by each witness and determine  
5 the weight, if any, you choose to give to that  
6 testimony.

7 Now, the testimony of a witness may fail to  
8 conform to the facts as they occurred because the  
9 witnesses is intentionally telling a falsehood or  
10 the witness didn't see or hear that about which  
11 the witness is testifying or perhaps the witness'  
12 recollection of the event is faulty or because he  
13 has not expressed himself or herself clearly in  
14 giving the testimony.

15 Suffice to say, you are at liberty to accept  
16 and consider either in whole or in part the  
17 testimony you believe and reject in whole or in  
18 part the testimony you do not believe.

19 There's no magic formula by which one may  
20 evaluate testimony. You bring with you to this  
21 courtroom all of the experience and background of  
22 your lives. And in your everyday affairs you  
23 determine for yourselves the reliability or  
24 unreliability of statements made to you by  
25 others. The same tests you apply in your

## Opening/Court

321

everyday dealings are the tests you should use in your deliberations in this case.

In your evaluation you should consider the interest or lack of interest of any witness in the outcome of the case, the bias or prejudice of a witness, if there be any, the age, the appearance, the manner in which the witness gives his or her testimony, the opportunity the witness had to observe that which the witness is testifying, the probability or improbability of the witness' testimony when viewed in light of all the of the evidence are some of the items, are some of the tests you should apply.

If it appears that there are any discrepancies in the evidence you will have to consider whether any apparent discrepancy may be reconciled by fitting the various versions together. If that is not possible you must then determine which of the conflicting versions you will accept.

Now, you and you alone will make the final decisions in this case. You will decide the facts after applying the law as given to you by the Court. You will make your final

## Opening/Court

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1  
2 determinations of what the facts are, as I know  
3 you will, giving careful and patient attention to  
4 all of the evidence you will hear and see during  
5 the course of the trial.

6 The collusion thus reached will be your  
7 verdict. We will begin tomorrow after opening  
8 statements by counsel for the people and the  
9 defendant, if he wishes to do so. And the people  
10 will then call witnesses to the witness stand and  
11 seek to offer evidence and testimony in direct  
12 proof of the People's case.

13 I'll recess until tomorrow morning at 10:30.  
14 Don't discuss this case among yourselves or with  
15 anyone else. Don't let anybody discuss this case  
16 with you or in your presence. If anybody does  
17 that report that to the court officer. Don't  
18 discuss it with your fellow jurors. I'll deal  
19 with it.

20 Don't visit any of the locations that you  
21 hear about during the course of this trial  
22 because, the areas may have changed during that  
23 period of time. And if you go there without any  
24 proper instructions you may get the wrong view.

25 I'm going to recess, as I said, until

Opening/Court

323

1  
2 tomorrow morning at 10:30. Don't come to the  
3 courtroom. The court officer will tell you where  
4 to report at 10:30. Please try not to be late.  
5 If one person is late. We can't start until  
6 everybody is in the courtroom; every juror must  
7 be here. So, I appreciate if you'd be here on  
8 time and listen to me when I tell you what times  
9 to come back to Court each day that the Court is  
10 on.

11 So, have a nice evening. I'll see you  
12 tomorrow morning at 10:30. The court officer  
13 will tell you where to report. If you're late  
14 don't come to the courtroom. I have other  
15 matters on. If you walk in you may see or hear  
16 something that you shouldn't and will compromise  
17 your positions as jurors. Again, have a nice  
18 evening. See you tomorrow.

19 COURT OFFICER: Jurors, rise, and follow me.

20 (The twelve jurors and four alternates exited  
21 the courtroom

22 THE COURT: Jurors have left the courtroom.

23 Mr. Schecter, you indicated you have another  
24 matter in the morning so I expect you to be here  
25 at 11:00 o'clock sharp.



Opening/Court

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MR. SCHECTER: Yes.


THE COURT: And you said you wanted to speak  
to your client for a few moments?

MR. SCHECTER: Yes, a few moments.

THE COURT: All right. Would a court officer  
allow him in?

\* \* \*

CERTIFIED THAT THE FOREGOING IS A TRUE AND  
ACCURATE TRANSCRIPT OF THE ORIGINAL STENOGRAPHIC  
MINUTES IN THIS CASE.

  
MICHAEL BERMAN, RPR  
Official Court Reporter

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SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF QUEENS: CRIMINAL TERM, PART K-25

-----X  
THE PEOPLE OF THE STATE OF NEW YORK,

Ind. No.  
3282/95

-against-

Jury Trial

HAI GUANG ZHENG,

Defendant.  
-----X

June 27, 28, 1996

Queens Supreme Court  
125-01 Queens Boulevard  
Kew Gardens, NY 11415

B E F O R E :

THE HONORABLE STANLEY B. KATZ,  
Justice, Supreme Court

A P P E A R A N C E S :

For the People:

THE HONORABLE RICHARD A. BROWN,  
District Attorney, Queens County,  
By: SCOTT KESSLER, ESQ,  
Assistant District Attorney

For the Defendant:

DONALD SCHECHTER, ESQ.

Catherine R. Parker,  
Official Court Reporter

CA 319/96 LP

## Proceedings

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1  
2 THE CLERK: Calendar number 6,  
3 indictment 3282 of '95, People versus Hai  
4 Guang Zheng.

5 Let the record reflect presence of  
6 official Mandarin interpreter, Mr. Wong. And  
7 sir, for the record, good morning. What's  
8 your name?

9 THE DEFENDANT: Zheng Hai Guang.

10 MR. KESSLER: Scott Kessler for the  
11 People.

12 MR. SCHECHTER: Donald Schechter, 10  
13 Cuttermill Road, Great Neck, your Honor.

14 Your Honor, when the defendant looked at  
15 the jury, he tells me that he wants half men,  
16 half women. What I told him was when the  
17 jury panel came over by random lot,  
18 approximately 80 percent of them happened to  
19 be women. That is why the jury is composed  
20 as it is that we used challenges as required.

21 THE COURT: All right. Are you ready to  
22 proceed?

23 MR. SCHECHTER: If your Honor pleases,  
24 -- your Honor, I understand the woman in the  
25 front row is an interpreter. I'd just ask

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who the other three individuals are.

THE COURT: I understand they're newspaper reporters.

MR. SCHECHTER: Your Honor, in view of the type of crime this is and the allegations against my client, I would ask they be excluded based on the type of crime that we're dealing here with.

THE COURT: I'm sorry. They have Constitutional rights to come into Court.

MR. SCHECHTER: Respectfully except.

THE COURT: Of course.

MR. SCHECHTER: Your Honor, the district attorney has just turned over to me the second part of a DD-5 that I did not receive which is DD-5 taken of one of the complaining witnesses. It would appear to me reading that there's a page, another page that would go along after this that I have not received.

MR. KESSLER: I have a copy -- I brought in the original file from the detectives so I wouldn't be working off of copies. There was a page in here that says the word over which is a continuation of the DD-5. The 5 appears

Proceedings

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1  
2 to end, the women were allowed to talk to  
3 their family occasionally during the  
4 negotiations of the ransom threats were made  
5 during and there is no -- the next sheet is  
6 simply a sheet involving the case closed, so  
7 I have every single piece of paper connected  
8 with the case. While it appears it's done  
9 mid-sentence, I have nothing else that is a  
10 continuation. Oh -- oh, no. That's  
11 something else. I have nothing else that  
12 could possibly be. I can have defense  
13 counsel look at their entire file, but if I  
14 had it, honestly your Honor, I would gladly  
15 turn it over.

16 MR. SCHECHTER: Well, I would ask at his  
17 first opportunity, Mr. Kessler speak to  
18 Detective Green and find out about that.

19 THE COURT: Would you do that, please?

20 MR. KESSLER: Sure. I'll call him  
21 during lunch and I'll fax him if I have to,  
22 what it is.

23 THE COURT: Other than that, can we  
24 proceed with this trial?

25 MR. SCHECHTER: Yes.

People - Opening 329

1  
2 THE COURT: Thank you very much. Would  
3 you please bring the jurors in?

4 (Whereupon, the jury entered the  
5 courtroom.)

6 THE CLERK: Case on trial continued,  
7 indictment 3282 of '95, People versus Hai  
8 Guang Zheng. Let the record reflect the  
9 presence of the defendant, official Mandarin  
10 interpreter, defense attorney and the  
11 assistant district attorney, 12 regular  
12 jurors, four alternate jurors all present and  
13 properly seated. All sides waive formal  
14 reading of the roll this morning?

15 MR. SCHECHTER: So waived.

16 MR. KESSLER: So waived.

17 THE COURT: Good morning, ladies and  
18 gentlemen. Sorry for the delay, but it was  
19 unavoidable. We're now going to hear  
20 openings by counsel and then we're going to  
21 the testimony of the case. Counsel?

22 MR. KESSLER: Good morning. Welcome  
23 again to an American court of law. As I said  
24 in the beginning during voir dire, my name is  
25 Scott Kessler and I'm the assistant district

People - Opening 330

1 attorney. And my job throughout the course  
2 of this trial is to present the evidence to  
3 you during the course of this case.  
4

5 Now, we have gone through a number of  
6 days of jury selection and some of you may be  
7 wondering why were you chosen to be on this  
8 particular case. The answer is pretty  
9 simple. You were chosen because you all  
10 assured us that you could be fair and  
11 impartial. You assured us at the end of this  
12 case if I proved to you the defendant's guilt  
13 beyond a reasonable doubt you'd be able to  
14 return a verdict of guilty.

15 This case involves kidnaping, rape,  
16 sexual abuse, gun possession and it starts  
17 out on March 31st of 1995. Because on March  
18 31st of 1995, two young women were kidnaped  
19 in our county. They were held almost two  
20 days. During a point in time they were held,  
21 they were raped repeatedly and held for  
22 ransom of \$15,000.

23 March 31st, 1995 is when it began  
24 because on that particular day, a gentleman  
25 named Guo Bang Liu -- you'll get a chance to

## People - Opening

331

1  
2 meet him -- he's a chef. He's married to  
3 another young woman who's 24 years old. Her  
4 name is Liu Yan Wu. They fly from Los  
5 Angeles into our county, Kennedy Airport.  
6 They're met there by Mr. Guo Bang Liu's  
7 sister. Her name is Jin Hao Liu. She's 21  
8 years old. Liu Yan was 24. So they arrive  
9 in our airport and Jin Hao Liu lives in  
10 Brooklyn at the time. She takes a car  
11 service to pick up the brother and brother's  
12 wife at Kennedy Airport on March 31st about  
13 10 o'clock in the evening. The flight is  
14 fine. They land normally. They go and they  
15 get their luggage. There's a Lincoln  
16 limousine service there waiting for them.  
17 They greet each other. They go into the  
18 Lincoln limousine service. They start to  
19 leave the airport.

20 As they're driving around Kennedy  
21 Airport, a point in time comes when this cab  
22 is cut off by another vehicle, absolutely  
23 just cut off right in front and the defendant  
24 and one of his accomplices get out of that  
25 car that cuts off this cab with Liu Yan Wu



People - Opening 332

1 and Guo Bang Liu and Jin Hao Liu. They take  
2 guns, they point it at the driver and all the  
3 passengers and order the passengers out of  
4 their car. Let's call this other accomplice  
5 for the sake of argument a man Yu Cam  
6 (phonetic).  
7

8 MR. SCHECHTER: Objection.

9 THE COURT: Sustained.

10 MR. KESSLER: You'll hear through the  
11 testimony in this trial through the  
12 defendant's statement, he identified this  
13 other person as Yu Cam (phonetic,) so the  
14 defendant and his accomplice now with guns,  
15 take the two visitors and the young woman  
16 from Brooklyn and holds them in their car and  
17 drive off leaving the cab driver.

18 It's a kidnaping, plain and simple. The  
19 problem is he kidnaped the wrong people.  
20 Those weren't the people he intended on  
21 kidnapping. They don't have a lot of money  
22 and they start asking for the passports of  
23 all the women and the men. They hand over  
24 their passports. They realize now these  
25 aren't the right people. They just kidnaped

People - Opening 333

1  
2 the wrong people. Well, rather than let them  
3 out, the defendant decides at this point in  
4 time that he's going to hold these women for  
5 ransom right or wrong.

6 What he does is he takes the only man,  
7 Guo Bang Liu. He drops him off in the middle  
8 of Brooklyn and takes the women in his car  
9 and brings them to a location in Queens  
10 County, middle of the night. They have no  
11 idea where they are. Guo Bang Liu, he  
12 doesn't really know where he is either. He's  
13 not too familiar with Brooklyn or the city,  
14 but he manages to meet a Chinese gentleman  
15 and get a cab to go back to a woman who we'll  
16 call her English name is Emily. And Emily --

17 MR. SCHECHTER: Objection to the term  
18 "we'll call," your Honor.

19 THE COURT: Yes. Don't use that term.

20 MR. KESSLER: I'm sorry, Judge.

21 THE COURT: Don't use the term "we'll  
22 call."

23 MR. KESSLER: We'll call. Okay. You'll  
24 hear from Emily who will tell you that she  
25 had made these plans for -- for the pick up

People - Opening

334

1 from the airport of Jin Hao Liu and Mr. Guo  
2 Bang Liu and all of a sudden, they're not  
3 there. The police are contacted. The fifth  
4 precinct is the precinct that they report it  
5 to and as soon as they hear what type of case  
6 this is involving a kidnaping of two women  
7 from our county at the airport, it's  
8 immediately assigned to this division of the  
9 New York City Police Department. The  
10 division is called the Major Case Squad.  
11 They are New York City's finest detectives.  
12

13 MR. SCHECHTER: Objection. Your Honor,  
14 can we approach for a moment?

15 THE COURT: Sustained.

16 MR. SCHECHTER: Can we approach for a  
17 moment?

18 THE COURT: Step up.

19 (Whereupon, a discussion was held off  
20 the record, at the side bar, among the Court,  
21 defense counsel and the assistant district  
22 attorney.)

23 MR. KESSLER: May I continue, your  
24 Honor?

25 THE COURT: Yes.

People - Opening 335

1  
2 MR. KESSLER: You'll hear about the  
3 backgrounds of these detectives. You'll hear  
4 about their experience they have in these  
5 types of cases. You'll hear about their  
6 experience in the New York City Police  
7 Department and you'll hear what they do in  
8 this particular case is immediately put a  
9 trace or a trapid (phonetic) trace on Emily's  
10 phone because that's their really only  
11 contact in New York City.

12 Sure enough, phone calls are now  
13 starting to come to Emily's house, okay, and  
14 the next morning, Emily starts receiving  
15 phone calls from the defendant. He starts  
16 telling Emily that he is holding these women  
17 for ransom and she has to get money together.  
18 Otherwise, they'll be killed. He starts out  
19 by demanding \$20,000; \$10,000 apiece.

20 Now, Emily is there and these police  
21 detectives who are with her at the time and  
22 they keep trying to get Emily to keep the  
23 defendant on the phone so long as possible  
24 keep him talking. She starts negotiating  
25 now, with the price. That's a lot of money.

People - Opening

336

1  
2 Can you come down a little bit keeping the  
3 defendant on the phone.

4 In the meantime, the New York City  
5 Police Department now learned that this is  
6 not a regular telephone, but a cell phone and  
7 they obtain search warrants and proper  
8 documents in order to trace this cell phone  
9 as to its exact location as it were this  
10 defendant is calling from. The phone calls  
11 are being made. They're now making  
12 arrangements as to how they're going to drop  
13 off the money and the monies negotiated down  
14 to \$7,500 apiece, in total \$15,000.

15 The defendant demand the 15,000 be  
16 delivered to an address on Henry Street in a  
17 particular way in a tea can with tea on top,  
18 the money on the bottom, vegetables all  
19 around. You'll hear about this during the  
20 course of this trial through the testimony.

21 In the meantime, we still have the women  
22 who are now in the basement of this home in  
23 our county. There are guns there. The  
24 defendant is there. Now, the defendant  
25 initially took the two women with let's call

People - Opening

337

1  
2 this accomplice number 1. Accomplice number  
3 1, when they get to the house leaves.

4 Accomplice number 2 now comes. Accomplice  
5 number 2 is a little shorter, a little  
6 heavier than the defendants. Now, these two  
7 men now have these two women held captive in  
8 the basement. They have guns. They have  
9 cellular phones now demanding ransom for the  
10 two women.

11 The women are now basically at their  
12 mercy and you'll hear a point in time comes  
13 the next morning when the defendant orders  
14 Liu Yan Wu into his bed. Now, if you recall,  
15 Liu Yan Wu is Guo Bang Liu's husband, 24  
16 years old. He orders her into his bed in a  
17 basement apartment. While in his bed, he  
18 starts now fondling her. He starts now  
19 touching her breasts. He now tries to take  
20 her hands and put it on his penis. She's now  
21 struggling with him. He starts to choke her.  
22 He starts to threaten her with a gun. He is  
23 now using physical force to try to have  
24 sexual abuse against this woman. He then  
25 orders her into another bedroom out of sight

People - Opening 338

of the other woman and his accomplice.

Well, once inside the other bedroom, he continues. He starts taking his hands and fondling her chest. He then starts to take off his clothes and take off her clothes. A point in time comes where he tries to take his penis and puts it into her vagina and you'll hear testimony in this case his penis partly goes into her vagina and he ejaculates. He takes a piece of clothes, he wipes it. He throws it to her, says, wipe yourself.

In the meantime, the other woman who you heard about, 21-year-old Jin Hao Liu, she's being raped as well.

MR. SCHECHTER: Objection.

THE COURT: Overruled.

MR. KESSLER: She's being raped in the other bedroom.

MR. SCHECHTER: Objection, your Honor.

THE COURT: This is what he intends to prove.

MR. SCHECHTER: Your Honor, that's an uncharged crime. My client is not charged

People - Opening

339

with that.

MR. KESSLER: Judge, if I could be heard, Judge, I'll --

THE COURT: Step up. Step up.

(Whereupon, a discussion was held off the record, at the side bar, among the Court, defense counsel and the assistant district attorney.)

THE COURT: All right. The objection is overruled.

MR. KESSLER: Now, at a point in time where Liu Yan Wu is being raped in one bedroom. She, her sister-in-law, is being raped in the other bedroom by the other man and what happens is she finally, struggling, doesn't have enough strength to finally stop him, but the defendant's penis entered her vagina. He ejaculates. As I indicated, takes a cloth, wipes and hands to her after she was being raped from that bedroom. She now leaves that bedroom, comes back. She comes back into the room where her sister-in-law is and her sister-in-law now is taken back to the bedroom where she is. The



People - Opening

340

defendant takes her sister-in-law into the  
bedroom.

Once back in that bedroom, the same  
thing occurs. The defendant starts touching  
her chest, starts taking off his clothes,  
starts taking off her clothes and in fact,  
rapes her sister-in-law. The same time her  
sister-in-law is being raped in the other  
bedroom, she's now being raped by the  
accomplice.

MR. SCHECHTER: Objection.

THE COURT: Overruled.

MR. KESSLER: You'll learn his name,  
Quin Guang Zheng (phonetic). You'll learn  
his name because he's arrested at the same  
time the defendant is arrested which we'll  
get to later on. You'll hear about these  
rapes that are occurring. You'll hear about  
the testimony, about the ransoms that are  
being called. Point in time comes where the  
defendant allows one of his two victims to  
make a phone call beyond the phone to let  
them know they're alive and make sure the  
money is being sent.

People - Opening

341

1  
2 Well, once the Major Case Squad now has  
3 narrowed down the area of Queens County where  
4 these phone calls are being made, they  
5 realize it's in the Flushing area and they  
6 realize at this point of time we're talking  
7 about the vicinity of 136th Street and 59th  
8 Avenue in Flushing and a squad of Major Case  
9 Division detectives now go to that area to  
10 try to find these women, try to trace that  
11 cellular phone the Defendant's been using on  
12 his ransom demands. He's the one on the  
13 phone. He's the one asking for the money.  
14 He's the one who abducted them.

15 A point in time comes where it's time  
16 for the money to be delivered. So Emily  
17 takes the money, brings it to Henry Street,  
18 drops it off. The detectives are now in the  
19 area of 136th Street and 59th Avenue, the  
20 area they think the cellular phone is being  
21 used for the ransom demand. They see know  
22 the two women coming from a basement  
23 apartment as they're in their car. They have  
24 photographs of these women, so they know what  
25 they look like because obviously, the

People - Opening 342

1  
2 detectives never met them before, but the  
3 family turned over photographs of these  
4 women.

5 Detectives look at the photographs of  
6 the women and realize immediately those are  
7 the women who were kidnaped and they see the  
8 defendant leaving the place where he had  
9 raped them, leaving the place where he had  
10 brought them after abducting them at Kennedy  
11 Airport with the women right next to him and  
12 go into an automobile.

13 MR. SCHECHTER: Objection; is more  
14 summation.

15 THE COURT: Well, the jury is being  
16 instructed this is what he intends to prove.

17 MR. KESSLER: I will proof to you he was  
18 standing right next to the women. Detectives  
19 saw him standing right next to the women.  
20 The detectives saw him leave the basement  
21 apartment with the women. The detectives saw  
22 him go into the automobile with the women.  
23 The detectives then looked inside the  
24 automobile and recognized those women as the  
25 kidnap victims. The women have no idea

People - Opening

343

1  
2 what's going on now because the detectives  
3 are not in a marked patrol car. They're not  
4 in regular police uniforms. They think  
5 they're being kidnaped again, but in reality,  
6 it's now the New York City Police Department  
7 that's stopping the defendant and his  
8 accomplice, Quin Zheng (phonetic) right  
9 outside the place where they held him,  
10 stopped the car, draw their guns, arrest  
11 defendant and his accomplice right then and  
12 there.

13 The women show the detectives the house  
14 they were at. They go right back to where  
15 they were before. Inside the house they find  
16 guns, cellar phones, beeper. Inside the car  
17 there's a cellular phone and a beeper. Now,  
18 at that point in time, two people are  
19 arrested. This defendant, Quin Gang Zheng  
20 (phonetic). As you recall, Quin Gang Zheng's  
21 a person little shorter, heavier. He came  
22 later, not one of the people who initially  
23 abducted the women and Guo Bang Liu, but Guo  
24 Bang Liu saw the defendant when he was  
25 abducted because he was the one with the gun.

People - Opening

344

1  
2 He was the one abducting him, so the New York  
3 City Police Department do a line-up. Take a  
4 number of people, Asian, puts them in a  
5 line-up. Guo Bang Liu comes into the police  
6 station. Looks, points to the defendant and  
7 says, that's the man that took us at gun  
8 point and took two women. So he's identified  
9 on the scene by the women. He's identified  
10 later that day by Guo Bang Liu as being one  
11 of the people.

12 He's caught immediately after leaving  
13 the house and he's now brought to 1 Police  
14 Plaza to be interviewed. There's a detective  
15 who speaks his native language, interviews  
16 him, gives him Miranda warnings, advises him  
17 of all the Constitutional rights we have here  
18 in the United States. He makes a statement  
19 and he -- and he admits he kidnaped the women  
20 making phone calls and holding them for  
21 ransom. Oh, he admits that, but you know  
22 what he doesn't admit? He does not admit he  
23 raped them. No, never raped them.

24 Ladies and gentlemen, at the end of this  
25 case, I will prove to you not only did he

People - Opening 345

1  
2 kidnap them, not only did he hold them for  
3 ransom, he raped those two women that night,  
4 the next morning. He has to be held  
5 responsible for that. He's held responsible  
6 for the kidnaping. He has to be held  
7 responsible for those rapes.

8 At the end of this case based upon all  
9 the evidence you'll hear, the evidence will  
10 be overwhelming showing you the defendant is  
11 guilty on each and every count; raping those  
12 women, kidnaping those women, sexually  
13 abusing those women, terrorizing those women  
14 during that kidnaping. Every single count  
15 will be proved to you beyond a reasonable  
16 doubt.

17 So at the end of this case, I'll be  
18 standing here again on summation. I'm asking  
19 you to do a simple thing. Follow the Judge's  
20 instruction on the law, determine the facts  
21 from the evidence. If you do that in this  
22 case, it will be very simple and very clear.  
23 Defendant is guilty not only of the  
24 kidnapings that he admits and holding it for  
25 ransom that he admits, but those rapes that

1 Guo Bang Liu - People - Direct346

2 he would not admit he is guilty of those and  
3 should be held responsible.

4 I have nothing further. Thank you for  
5 your time. I've concluded with my opening.  
6 Your Honor, thank you.

7 THE COURT: Do you wish to open?

8 MR. SCHECHTER: Your Honor, I'll defer  
9 my opening until after the People's case.

10 THE COURT: All right. Put on your  
11 first witness.

12 MR. KESSLER: People call Mr. Guo Bang  
13 Liu to the stand.

14 Your Honor, I believe we'll need a  
15 Cantonese interpreter.

16 (Whereupon, the Official Court  
17 Interpreter, Rose Eng, was duly sworn.)

18 THE COURT: What dialect?

19 THE INTERPRETER: Cantonese.

20 G U O B A N G L I U, a witness called on behalf of  
21 the People, a resident of Wayne County, Michigan, after  
22 having first been duly sworn by the Clerk of the Court,  
23 took the witness stand and testified as follows:

24 DIRECT EXAMINATION

25 BY MR. KESSLER:

1 Guo Bang Liu - People - Direct347

2 Q Mr. Liu, if you could turn your chair towards  
3 me so it's not at an angle. Mr. Liu, I'm going to ask  
4 you a series of questions and if there's anything that  
5 you don't understand from the interpreter, just let me  
6 know and I'll try to rephrase it, okay?

7 Are you having any problem with the interpreter so  
8 far Mr. Liu?

9 THE INTERPRETER: Can I say a few words  
10 with him so I know exactly --

11 (Pause.)

12 THE INTERPRETER: Okay. We're all  
13 right.

14 Q Okay. Fair enough. Mr. Liu, how old are  
15 you?

16 A 32.

17 Q Are you married?

18 A Yes, I'm married.

19 Q What is your wife's name?

20 A Liu Yan Wu.

21 Q What do you do for a living?

22 A I'm a cook in a restaurant.

23 Q Now, Mr. Liu, I'm going to direct your  
24 attention to the date of March 31st, 1995. Do you  
25 recall that day?



1 Guo Bang Liu - People - Direct348

2 A I remember, but there's sometimes because  
3 it's been a long time that I might not remember  
4 everything.

5 Q Do you remember where you were that day and  
6 where you were going to?

7 A That day I came from LA to New York at the  
8 airport.

9 Q And was anyone with you when you came?

10 A I came with my wife.

11 Q Now, do you recall approximately what time  
12 you landed -- your plane landed in Kennedy Airport on  
13 March 31st?

14 A As I recall, it's in the evening around 9  
15 o'clock.

16 Q After your plane landed, what did you and  
17 your wife do next?

18 A My sister was to come to me at airport.

19 Q What's your sister's name?

20 A Jin Hao Liu is my sister name.

21 Q And did she meet you at the airport?

22 A Yes.

23 Q After you met your sister at the airport,  
24 what did you and your wife and your sister do next?

25 A After my sister met me, we boarded the

1 Guo Bang Liu - People - Direct349

2 Lincoln car service.

3 Q And who was in the car at that point in time?

4 A That time it was the driver, myself, my wife  
5 and my sister.

6 Q Would you tell us what happened after you  
7 began to leave Kennedy Airport with those people in the  
8 car?

9 A After the car service start in a short  
10 distance all of a sudden, a car stopped us.

11 Q And how did the car stop you?

12 A They had the car approached the front of our  
13 car.

14 MR. KESSLER: Judge, for the record, the  
15 witness has indicated his two hands were in a  
16 crossing gesture.

17 Q After the car went in front of your car, what  
18 is the next thing that happened?

19 A They had a gun with a newspaper covering and  
20 asked my two sisters -- all right.

21 THE INTERPRETER: I gonna say again.

22 A He came out. He had a gun. The cover -- he  
23 had a paper to cover his gun and he ordered my wife and  
24 my sister to get out of the car.

25 Q How many people did this?

1 Guo Bang Liu - People - Direct350

2 A Two people, two person.

3 Q What did you do after these two people --  
4 were they men or women?

5 A Male.

6 Q What did you do after these two men ordered  
7 you out of your car after they showed you the gun?

8 A That time I was very scared, very afraid.

9 MR. SCHECHTER: Objection, your  
10 Honor.

11 THE COURT: Sustained. It's not  
12 responsive.

13 Q Could you tell us what you did at that point  
14 in time after they had ordered you to go out of the car  
15 with their gun?

16 A They pointed to go into their car.

17 Q And did you go into their car?

18 A Yes.

19 Q Who went with you into their car?

20 A The two of them ordered my wife, my sister  
21 and I into the car.

22 Q And what did you do?

23 A Then they started the car.

24 Q Where was the taxicab driver at this point?

25 A I did not know what happened to the driver of

1 Guo Bang Liu - People - Direct351

2 the taxi.

3 Q What happened after you were in this other  
4 automobile?

5 A They ordered me to show them documents.

6 Q What did you do?

7 A I gave him -- I gave them my passport and my  
8 wife's passport and showed it to them.

9 Q What happened after you showed that to them?

10 A Then he said, "Oh, we pick up the wrong  
11 persons."

12 MR. SCHECHTER: Objection.

13 THE COURT: I'm sorry?

14 MR. SCHECHTER: I'm objecting to the  
15 term "he."

16 THE COURT: Be more specific.

17 Q When you say "he," who are you referring to?

18 A The two bad people.

19 Q And what if anything did you say to them and  
20 what if anything did they say to you?

21 A Then they said, "Oh, there's no problem. We  
22 pick up the wrong persons."

23 Q What if anything did you say to them?

24 A At that time I was very frightened and I  
25 didn't talk to them no more.

Guo Bang Liu - People - Direct352

Q Well, what happened after they had told you they had picked up the wrong persons?

A Then I asked him to release us.

Q Did they?

A Then they wrote their telephone number and gave it to me.

Q And what did you do at this point?

A That's a building -- then we went to June Wah Apartment, the name of the apartment, June Wah. Near the bridge, there's a June Wah apartment house.

Q When you say near the bridge, did you stay in the car or were you now out of the car at this point in time?

A That time I was still in the car.

Q Did you ever leave the car?

A Yes. I left the car and he had a gun on me. And he told me to close his door. And then and then they drove off. That time they drove my wife and my sister in the car and drove away. I wasn't in the car.

Q Did you know where your wife and your sister were going at that point in time?

A I didn't know.

Q After -- do you know where you were dropped off?

1 Guo Bang Liu - People - Direct353

2 A What bridge I'm not -- I'm not sure, but it's  
3 near this June Wah Apartment House.

4 Q Had you ever been near this bridge before  
5 this time?

6 A These -- these areas I have never been there  
7 before.

8 Q Did there come a point in time where you were  
9 finally able to see someone that you did know?

10 A That time I saw an Asian man. At that time,  
11 I saw an Asian man and asked him to -- asked him to help  
12 me call up for car service to go home.

13 Q Did a car service come?

14 A Yes. A Lincoln towncar came to pick me up.

15 Q When you say you went home, where was home at  
16 this point?

17 A It's in Chinatown, Grant Street.

18 Q And who lived there?

19 A My mother lives there.

20 Q And does anyone else live there with your  
21 mother?

22 A And my sister.

23 Q What's her name?

24 A Jim Ji Liu (phonetic) sister's name.

25 Q Does she also have an American name that she

1 Guo Bang Liu - People - Direct354

2 uses?

3 A Her English name is Emily Liu.

4 Q I'm just going to refer to her as Emily for  
5 one moment. Did there come a time that you arrived and  
6 Emily was present?

7 THE INTERPRETER: By home?

8 MR. KESSLER: Yes.

9 A When I went home, Emily was downstairs. That  
10 time my sister asked the driver to bring my luggage back  
11 to my house.

12 MR. SCHECHTER: Objection; hearsay.

13 THE COURT: Sustained.

14 Q Just tell me yes or no. Did you have a  
15 conversation with Emily when you got back home? Yes or  
16 no without telling us what you said.

17 A Yes.

18 Q After you had that conversation with Emily,  
19 did there come a time that you went to another location?

20 A I went to the fifth precinct to report this  
21 incident.

22 Q And when you got to the fifth precinct, --  
23 strike that.

24 After you had left that car, did there come a  
25 time --

1 Guo Bang Liu - People - Direct355

2 THE COURT: What car are you referring  
3 to?

4 Q I'm referring to the car that you were being  
5 held at gunpoint in.

6 MR. SCHECHTER: Objection to that.

7 THE COURT: Overruled.

8 Q Did there come a point in time that you saw  
9 either of the two men who were in that car again?

10 THE INTERPRETER: Could I have that  
11 question again?

12 Q Sure. After you had left the car where the  
13 two men were, did there come a point in time -- did you  
14 ever see either one of those two men again?

15 A I saw one of them.

16 Q Where did you see one of them?

17 A When they had him in the precinct I saw him.

18 Q Was he standing by himself or was he standing  
19 with other people?

20 A That time there was five or six people with  
21 him.

22 Q And did each of these people have a number  
23 assigned to them?

24 A Yes, everyone had a number.

25 Q What number was the person that you recognize



1 Guo Bang Liu - People - Direct356

2 as being one of the two people in the car?

3 A The one that I recognize was number five.

4 Q And where did you recognize number five from?

5 A I saw this man in the precinct but I also saw  
6 him in the car.

7 Q The man that you saw as number five, was that  
8 also one of the men who was in the car with you with  
9 your sister -- your wife and your sister-in-law?

10 A Yes.

11 Q I want you to take a look around this  
12 courtroom from this wall to that wall, from this wall to  
13 that wall, the entire courtroom and look around and see  
14 if you see the person who you recognized as number five  
15 and the person that you recognize as being in the car  
16 with you.

17 (Pause.)

18 A Yes, I see the person with the green shirt  
19 on.

20 MR. KESSLER: Let the record indicate  
21 the witness has identified the defendant.

22 THE COURT: Defendant.

23 Q The person that you pointed to, was he the  
24 person that you were having the conversations with about  
25 the passport or was it the other person in the car?

1 Guo Bang Liu - People - Cross 357

2 A I don't really recall which one.

3 Q Was both of the people in the car speaking to  
4 you or was it all one person?

5 A Mostly one person spoke to me.

6 MR. KESSLER: I have nothing further for  
7 this witness.

8 MR. SCHECHTER: Your Honor, could I just  
9 have a few moments?

10 (Pause.)

11 CROSS-EXAMINATION

12 BY MR. SCHECHTER:

13 Q Mr. Liu, can you hear me from here?

14 A Yes, I can hear you.

15 Q Now, you said you're 32 two years of age?

16 A Yes.

17 Q How long have you -- do you live in the  
18 United States?

19 A Yes.

20 Q Were you born in the United States?

21 A No.

22 Q How long have you been in the United States?

23 A Five years.

24 Q And your wife, has she been in the United  
25 States five years with you?

1 Guo Bang Liu - People - Cross 358

2 A No.

3 Q How long has she been in the United States?

4 A A little more than a year.

5 Q Now, are you a United States citizen?

6 A No, a green card. I hold a green card.

7 Q Now, in the five years that you've been in  
8 the United States, have you ever lived in New York?

9 THE INTERPRETER: I have to ask him to  
10 say it again.

11 A I've lived in New York most -- all five years  
12 except going on vacation.

13 Q Do you remember what airline you took to get  
14 from Los Angeles to New York?

15 A I took the Tower Airline.

16 Q Now, prior to you going to the precinct and  
17 viewing this gentleman -- well, withdrawn.

18 Do you remember what day it was that you saw your  
19 sister and your wife again after the original date?

20 THE INTERPRETER: Could I have that  
21 question? Could I have that question again?

22 Q What date did you come into New York?

23 A March 31st.

24 Q And that was at 9 o'clock at night about?

25 A Around 9 or 10 o'clock in the evening.

1 Guo Bang Liu - People - Cross 359

2 Q How long had you been at the airport before  
3 you saw your sister?

4 THE COURT: Listen to me. What's the  
5 question? Please. What's the question you  
6 want asked by the witness?

7 MR. SCHECHTER: How long had he been at  
8 the airport.

9 THE COURT: Well, there was an original  
10 question you asked. You asked him when he  
11 saw his sister and wife next after the 31st.

12 MR. SCHECHTER: I withdrew that  
13 question.

14 THE COURT: I didn't hear it withdrawn.  
15 If it's withdrawn, go on to something  
16 else.

17 THE INTERPRETER: He still didn't get  
18 it.

19 MR. KESSLER: Judge, it appears the  
20 witness doesn't understand the question. I  
21 would ask a new question be asked to the  
22 witness.

23 THE COURT: No, please. You can't have  
24 conversations with the witness.

25 THE INTERPRETER: I'm trying to explain.

1 Guo Bang Liu - People - Cross 360

2 THE COURT: No, you can't. You just  
3 have to ask the question and give the answer.  
4 That's all your role is.

5 Would you please rephrase the question?

6 MR. SCHECHTER: Can I just have a  
7 moment?

8 (Pause.)

9 Q Your plane came into Kennedy Airport, am I  
10 correct?

11 A Yes.

12 Q And you then went out to get your luggage?

13 A Yes.

14 Q How long was it from the time your plane  
15 landed at Kennedy until you saw your sister?

16 A When the plane arrived and we were at the  
17 luggage carousel, I saw my sister and my wife.

18 Q Now, your sister was not on the plane with  
19 you from Los Angeles?

20 A No, no.

21 Q Did -- prior -- when -- from the time you  
22 were in the car when you were then let out of the car,  
23 do you remember that time?

24 A What car are you talking about?

25 Q The car with your sister and your wife in

1 Guo Bang Liu - People - Cross 361

2 Brooklyn.

3 THE COURT: No, please.

4 Q By the bridge and the apartment building.

5 THE INTERPRETER: You're talking about  
6 the car service?

7 THE COURT: We've got two cars involved  
8 here and you have to be more specific.

9 Q There came a time that you were let out of  
10 the car by yourself?

11 A What are you talking -- what car are you  
12 talking about?

13 Q When you first got into one car, am I  
14 correct?

15 THE COURT: Is that the limousine you're  
16 referring to?

17 MR. SCHECHTER: I don't want to use --

18 THE COURT: Use whatever term you want,  
19 but you're confusing the witness, obviously.

20 Q Then did you get into a second car?

21 A Yes.

22 Q Okay. And then you were let out of the  
23 second car?

24 A Yes.

25 Q Okay. When you were let out of the second

1 Guo Bang Liu - People - Cross 362

2 car, when was the next time you saw your wife and  
3 sister? How many hours, days, weeks passed?

4 A On the 31st day, he let me go and then until  
5 the 2nd. Then about until the 2nd around 2 or 3  
6 o'clock, I saw my wife.

7 THE COURT: 2nd of what?

8 THE WITNESS: April the 2nd.

9 Q And what time was it on April 2nd that you  
10 saw your wife?

11 A I saw them on April the 2nd after midnight.

12 Q Now, was that also when you were taken in  
13 that room to look at people?

14 THE INTERPRETER: Question again?

15 Q Was that at about the same time that you were  
16 taken into a room to look at certain people, certain  
17 males?

18 A Yes.

19 Q Now, prior to that time on April 1st, did you  
20 ever speak to any police officers about what happened?

21 A Yes.

22 Q Now, do you know the name of the police  
23 officer who you spoke to?

24 A I don't know.

25 Q If I gave you the name have a Police Officer

1 Guo Bang Liu - People - Cross 363

2 Daniel Murphy, would you know if that was the police  
3 officer who you spoke to?

4 A I don't recall.

5 Q Would you have spoken to him on April 1st?

6 A Yes.

7 Q Okay. And at that time when you spoke to  
8 Detective Murphy, did you tell him that you along with  
9 your wife, Liu Yan Wu, and her sister arrived at JFK  
10 airport on March 31st at approximately 9:30 in the  
11 hours -- at 2130 hours on a Tower Air flight that  
12 originated in Los Angeles?

13 THE INTERPRETER: Could you make that  
14 question a little shorter, please?

15 THE COURT: We will break it up. Break  
16 it up into segments.

17 Q Did you tell that officer that you, your wife  
18 and her sister arrived at JFK at about 9:30 in the  
19 evening on March 31st?

20 A Yes, I told him.

21 Q That's what you told him?

22 A Yes.

23 Q And that the flight had originated in Los  
24 Angeles?

25 A Yes.



1 Guo Bang Liu - People - Cross 364

2 Q And that the three of you, you, your sister  
3 and her -- you your wife and her sister had left China  
4 and connected in LA to visit family in New York?

5 A Yes, to see my mother.

6 Q Okay. But is that what you told that police  
7 officer?

8 A I didn't tell him.

9 Q You didn't tell him that?

10 A No.

11 Q You never told him that you, your wife and  
12 your sister-in-law had left from China?

13 THE INTERPRETER: From China?

14 MR. SCHECHTER: From China.

15 A It's been a long time. I don't know.

16 Q Could you have told him that?

17 MR. KESSLER: Objection as to form.

18 THE COURT: Sustained.

19 Q When you spoke -- do you speak any English?

20 A No.

21 Q When you were speaking to that detective, was  
22 there a person there translating?

23 A Yes.

24 Q Okay. So you don't remember if that's what  
25 you told him?

1 Guo Bang Liu - People - Cross 365

2 A It's been a long time. I don't remember.

3 Q Now, how long was it that you were in the  
4 limo car prior -- how long were you driving in the limo  
5 car prior to this other car blocking your way?

6 A I'm not quite sure, but it's not too long,  
7 not too far.

8 Q Can you approximate the amount of time?

9 A About 10 to 15 minutes.

10 Q And had you left Kennedy Airport yet?

11 A I'm not -- I don't quite understand.

12 THE COURT: He says he doesn't quite  
13 understand.

14 Q The place where the limo car was that picked  
15 you up, did you put your luggage in the limo car?

16 A My sister asked the chauffeur to pick up the  
17 luggage and take it to the car.

18 Q Was the car -- the car moved; am I correct?

19 A Yes.

20 Q And then the other car blocked your way?

21 A Yes. There's a car that came to block us.

22 Q Do you know where -- what parkway or road you  
23 were on at that time?

24 A I don't know the road, street.

25 Q Were there other cars around at that time?

1 Guo Bang Liu - People - Cross 366

2 MR. KESSLER: Judge, I'm sorry. Could  
3 the interpreter just finish the witnesses'  
4 answer before the next question?

5 THE COURT: I didn't know it was over.  
6 Finish the answer.

7 THE INTERPRETER: Now I forgot the  
8 answer.

9 THE COURT: Finish. Next question was  
10 there any other cars around.

11 A It does -- I don't recall much, but I think  
12 there was another car.

13 Q Now, the area where the cars were blocked --  
14 withdrawn.

15 It was dark out that evening when this occurred?

16 A Yes.

17 Q Now, the place where the cars stopped, were  
18 there any lights in that area?

19 A No.

20 Q And it would have been dark there if those  
21 two individuals then get out of the one car and get into  
22 the limo car?

23 A Yes, the two got out of the car and had a gun  
24 at us, at our car.

25 Q Where were you seated in the car, in the

Guo Bang Liu - People - Cross 367

limo?

A I sat in the back seat.

Q Was anyone else in the back seat with you?

A My wife, my sister and I. All three of us sat in the back seat. No, no, no, no. I forgot now. I don't know if the three of us are sitting together.

Q Do you remember whether you were on the driver's side or passenger side of the vehicle?

A I was at the passenger side.

Q Did both men approach your side of the vehicle who had the guns?

A No.

Q How many approached your side?

A One person came to my side.

Q Did you see where he had gotten out of the other vehicle?

A I'm not quite -- I'm not quite sure.

Q Now, the person who came over to your side of the vehicle, when you then got into the second car, was he the driver of the vehicle or on the passenger side?

A I'm not -- I don't recall.

Q Now, you said -- did you see -- where did the -- one person came over to your side. Where did the other person go?

1 Guo Bang Liu - People - Cross 368

2 A The other person was in the car.

3 Q Was in the limo?

4 A What time are you talking about?

5 Q When the car was originally stopped.

6 A One person, one person came to my side. The  
7 other person was the driver.

8 Q So you weren't able to see the other person?

9 A Not quite clear.

10 Q Okay. Now, what was the conversation that  
11 the person by your side had?

12 A Say hurry up and get out of the car.

13 Q What language was this said in?

14 A I didn't quite understand his dialect.

15 THE COURT: What language was it in?

16 THE WITNESS: It sounds like Mandarin,  
17 but I'm not sure what kind of language it  
18 was.

19 Q What dialect -- but it was in some sort of  
20 Chinese?

21 A Yes.

22 Q Okay. What dialect of Chinese do you speak?

23 A I speak Taiwanese and Cantonese.

24 Q Did you immediately get out of the car with  
25 your sister and your wife?

1 Guo Bang Liu - People - Cross 369

2 A Yes, they told me to get out of the car and  
3 gone into their car.

4 Q What kind of car did you get into?

5 A I don't know. I only know it's a car.

6 Q Do you remember what color the car was?

7 A I'm not sure what color is. It's dark. It's  
8 not white, it's not green. It's dark. I couldn't make  
9 clear what the color was.

10 MR. SCHECHTER: Can I just have one  
11 moment?

12 (Pause.)

13 Q Did you ever tell the police officer on April  
14 1st that it was a black car?

15 A I told him that I don't recognize what color  
16 it was.

17 Q So if he wrote down that it was a black car,  
18 that would be incorrect?

19 A I don't remember.

20 Q Okay. And while the time you were in the  
21 limo car and the people -- the only thing they told you  
22 was to get out of the car?

23 THE INTERPRETER: I have to explain it  
24 to him.

25 THE COURT: You have to tell us just

1 Guo Bang Liu - People - Cross 370

2 what he said.

3 THE INTERPRETER: Question again.

4 MR. SCHECHTER: Can I have the Court  
5 Reporter read?

6 THE COURT: Would you repeat the  
7 question, please?

8 (Whereupon, the Court Reporter read  
9 back the requested portion.)

10 A Yes.

11 Q And while you were in the limo car, did he  
12 ever ask you to see your passport?

13 A No.

14 Q Now, Mr. Liu, do you remember testifying on  
15 July 17th, 1995 before a grand jury in Queens County?

16 A Yes.

17 Q And let me ask you this. Had you ever seen  
18 these two people before?

19 THE COURT: Which two people are you  
20 referring to?

21 Q The two people from the other car, not the  
22 limo driver.

23 A After they were arrested --

24 Q I'm talking about prior to their arrest.

25 A No. Okay. Do you remember on July 17th

1 Guo Bang Liu - People - Cross 371

2 being asked these questions and giving these answers?

3 THE COURT: One at a time.

4 Q Page 21, line 10.

5 "QUESTION: Have you ever seen any of these  
6 men before?

7 "ANSWER: No, never."

8 THE COURT: Give him that question  
9 ((Pause.)).

10 A Yes.

11 Q "QUESTION: After they had asked you for your  
12 passport, what if anything occurred? What's the next  
13 thing that occurred?

14 "ANSWER: And after reviewing my passport, he  
15 told me he identified the wrong person."

16 A Yes, I did.

17 Q "QUESTION: What car were you in when he said  
18 that? Were you in a car or on foot? Where were you?

19 "ANSWER: We were in the limousine car."

20 A No. I said that it was in his car, in their  
21 car.

22 MR. SCHECHTER: Your Honor, I would ask  
23 the district attorney if that's what the  
24 minutes say, the grand jury proceeding.

25 MR. KESSLER: That's correct, your



1 Guo Bang Liu - People - Cross 372

2 Honor.

3 Q So you never told the grand jury that that  
4 occurred in the limousine car?

5 A No.

6 Q And that the minutes would say that from the  
7 grand jury proceeding they would be incorrect?

8 MR. KESSLER: Objection as to form.

9 THE COURT: Sustained as to form.

10 Speak for themselves.

11 Q Do you remember if there was a person similar  
12 to this lady taking down notes on a machine similar to  
13 her in the grand jury?

14 A I don't recall.

15 Q Now, when the person -- were you able to see  
16 what type of weapon the person had who was by you?

17 A I don't know anything about that.

18 Q Were you able to see the weapon?

19 A Yes.

20 Q Were you able to see the entire weapon?

21 A I just saw part of it. There was a newspaper  
22 that was covering part of it.

23 Q Okay. Could you tell what color that weapon  
24 was?

25 A I don't recall.

Guo Bang Liu - People - Cross 373

1  
2 Q The other person, did you ever see that other  
3 person with a weapon?

4 A The other person after I went into their car,  
5 I saw that he had a gun.

6 Q Were you able now -- were there ever any  
7 lights on in the other car, not the limo car while you  
8 were in that car?

9 A It's a long time. I don't remember.

10 Q You don't remember if there were?

11 A No.

12 Q Now, the person who was standing by you, do  
13 you know what part of the other car he got into?

14 A I don't remember.

15 Q Okay. The person who you saw on April 2nd in  
16 the line-up who you identified as number five, was he  
17 the person who was standing by you on the passenger side  
18 of the vehicle?

19 A I don't know. It's a long time. I don't  
20 remember.

21 Q On April 1st when you were -- withdrawn. How  
22 long were you in the second vehicle before they let you  
23 off?

24 A The time I don't remember.

25 Q Do you remember what either of the two

1 Guo Bang Liu - People - Cross 374

2 individuals were wearing?

3 A A short T-shirt like the one is not the color  
4 of the inside of my T-shirt, but it had lines across the  
5 front.

6 Q The one individual who was standing by you  
7 outside of the vehicle, can you tell the members of the  
8 jury if you remember how tall he was?

9 A I don't remember, but I think he's shorter  
10 than I am.

11 Q How tall are you?

12 A 5'10.

13 Q The other person who was on the other side of  
14 the vehicle, do you remember how tall he was?

15 A I don't remember how tall.

16 Q Do you remember speaking to a police officer  
17 on April 1st and did he ask you for a description of the  
18 two people?

19 A I'm not quite sure.

20 Q Well, do you ever remember giving a  
21 description of the two people as follows: Person number  
22 one: Race Asian, age 20, height 5'6.

23 THE INTERPRETER: All right. That's  
24 enough. The year is what? The age is what?

25 MR. SCHECHTER: Age twenties.

1 Guo Bang Liu - People - Cross 375

2 THE COURT: Let's do it one at a time.

3 THE INTERPRETER: Make your questions  
4 short, please.

5 Q Do you remember giving a description to a  
6 police officer about the two individuals?

7 A I'm not quite sure.

8 Q Well, did you give a description that the  
9 first person was an Asian in his twenties?

10 A I didn't tell them.

11 Q You never gave any police officer a  
12 description?

13 THE COURT: No, he didn't say that.

14 Sustained.

15 Q Well, if I give you a description, would that  
16 help refresh your recollection?

17 A No.

18 Q Are you sure?

19 THE COURT: He said it wouldn't refresh  
20 his recollection. Go to something else.

21 Q Well, did you ever give his weight as 130  
22 pounds of the first individual?

23 MR. KESSLER: I object.

24 THE COURT: Sustained. Sustained.

25 Please.

1 Guo Bang Liu - People - Cross 376

2 Q Did you give a description of the second.  
3 individual as 5'6, 130 pounds?

4 MR. KESSLER: Objection.

5 THE COURT: You have to establish  
6 whether he recalls giving a description.

7 Q Do you remember giving a description to  
8 police officers?

9 A No.

10 Q Do you remember being asked by a police  
11 officer what the two men looked like?

12 A They asked me, but I'm not sure.

13 Q Well, did you give them a description at that  
14 time?

15 A I told the police if I see the person, I  
16 would recognize them.

17 Q Did they ever ask you for a description and  
18 did you give them a height and weight of the two  
19 individuals?

20 MR. KESSLER: Objection; asked and  
21 answered.

22 THE COURT: Well, overruled. I'll allow  
23 one more try at it.

24 A No.

25 Q You never gave them a height and weight

1 Guo Bang Liu - People - Cross 377

2 description?

3 A No.

4 Q And if they wrote it down, they would not  
5 have gotten it from you?

6 MR. KESSLER: Objection.

7 THE COURT: Sustained.

8 Q Now, the person who you say you saw was  
9 number five, was he the driver of the car or the  
10 passenger in the car?

11 A I don't remember.

12 Q Was he the person who was -- who asked for  
13 your passports and your proof?

14 A The one on the passenger side asked me for my  
15 documents.

16 Q And was he the one who you were looking at?

17 A Yes.

18 Q Did you ever look at the driver of the  
19 vehicle?

20 A Yes, I see him.

21 Q But did he turn around to you or was he  
22 looking forward driving the car?

23 A He turned around and looked at me.

24 Q But there were no lights on in the vehicle,  
25 in the car?

1 Guo Bang Liu - People - Cross 378

2 THE INTERPRETER: There are no what?

3 Q Lights on in the car?

4 A I'm not --

5 Q It was dark in the car.

6 A I'm not sure.

7 Q The one in the passenger side was the one who  
8 looked at your documents and said we have the wrong  
9 people?

10 THE COURT: Are you going to be much  
11 longer?

12 MR. SCHECHTER: Yes, for a while.

13 THE INTERPRETER: Yes.

14 THE COURT: The answer his yes and we'll  
15 recess now until 2 o'clock.

16 Ladies and gentlemen, don't discuss the  
17 case among yourselves or with anyone else.  
18 Don't allow anyone to discuss the case with  
19 you. Report back where the Court Officers  
20 tell you at 2 o'clock. See you then. Have a  
21 nice lunch. Everybody stay seated until the  
22 jury leaves.

23 (Whereupon, the jury left the  
24 courtroom.)

25 THE COURT: Everybody be back at 2

1 Guo Bang Liu - People - Cross 379

2 o'clock sharp.

3 MR. SCHECHTER: Your Honor, I'll put  
4 something --

5 THE COURT: Do it at 2 o'clock.

6 Mr. Kessler, don't discuss his testimony  
7 with anybody. Don't let him talk to anybody.

8 MR. KESSLER: He has to eat with his  
9 family.

10 MR. SCHECHTER: Not about this matter.

11 THE COURT: About the case. He can  
12 order lunch.

13 L U N C H E O N R E C E S S .

14 AFTERNOON SESSION.

15 THE CLERK: 3282 of '95, trial  
16 continues, Hai Guang Zheng. Let the record  
17 reflect presence of the official Mandarin  
18 interpreter, presence of the defendant,  
19 defense attorney and assistant district  
20 attorney, outside the presence of any sworn  
21 jurors at this time.

22 THE COURT: Mr. Schechter, you wanted to  
23 make a record on something said by counsel in  
24 the opening?

25 MR. SCHECHTER: I was objecting to the



1 Guo Bang Liu - People - Cross 380

2 district attorney's opening when he said  
3 testimony would come out about Sing Quin Yang  
4 (phonetic) the co-defendant on this matter.  
5 He was saying there would be testimony  
6 about a rape by that defendant as to the two  
7 females and I objected to that at that time,  
8 your Honor. I object for the following  
9 reason. My client is not charged with any  
10 acting in concert with any of the alleged  
11 rapes that were committed by him. He's  
12 charged by himself with raping one of the two  
13 females. He is not charged with acting in  
14 concert with the other gentleman as to any  
15 rape. I believe that would be, if any  
16 testimony comes out concerning that, it would  
17 be an uncharged crime that the rape was and  
18 as such, your Honor, there would be no need  
19 for that. The district attorney was making  
20 argument about the crime of terrorizing these  
21 females during this time, your Honor. I  
22 believe there would be more than ample other  
23 testimony based on his opening that would  
24 show if the jury choses to believe the  
25 witnesses that there was terrorization

1 Guo Bang Liu - People - Cross 381  
2 occurring here and I don't believe there  
3 would be any point in having anyone testify  
4 as to what the co-defendant did with the  
5 females as to any alleged rapes.

6 MR. KESSLER: Actually, Judge, there is  
7 a count that does charge this defendant being  
8 aided by others on the fourth count of the  
9 indictment, abducting the women and holding  
10 them for a period of more than 12 hours with  
11 intent to violate and abuse them sexually, so  
12 in reality, there's a charge where they're  
13 charged with acting in concert with sexually  
14 abusing them for the purpose of kidnaping.

15 While it is not a rape, the rape  
16 Count is a sole and separate count on the  
17 defendant. This is the fourth --

18 THE COURT: At the appropriate time, I  
19 will advise the jury that anything regarding  
20 the rape by the other defendant, former other  
21 defendant is not chargeable to this  
22 gentleman and has no relationship with what  
23 he did.

24 MR. KESSLER: Judge, with regards to the  
25 fourth count, though the defendant is charged

1 Guo Bang Liu - People - Cross 382

2 acting in concert with another person, okay,  
3 holding these women for more than 12 hours  
4 with intent to violate and abuse them  
5 sexually --

6 THE COURT: What I'm saying as to  
7 whether or not they believe that he raped,  
8 this present defendant raped them, the fact  
9 that the other one may have raped them does  
10 not mean that he raped them.

11 MR. KESSLER: If the other person, if  
12 they do not believe that he had raped them,  
13 but the other person had raped them --

14 THE COURT: That would be to the sexual  
15 abuse charges.

16 MR. KESSLER: If I could just finish,  
17 your Honor? If they do not believe that he  
18 raped them, but in fact, believe that the  
19 other co-defendant raped these women, then  
20 they can find him guilty of the fourth count  
21 where he acting in concert with another holds  
22 these women with intent to abuse and violate  
23 them sexually.

24 THE COURT: As to the sexual abuse  
25 charge, but not as to whether he it or did,

1 Guo Bang Liu - People - Cross 383  
2 not rape the two women.

3 MR. KESSLER: Actually, that's a  
4 kidnaping charge, but now I understand your  
5 Honor.

6 MR. SCHECHTER: I'm excepting.

7 THE COURT: Okay. Ready to proceed  
8 then?

9 MR. KESSLER: Yes.

10 THE COURT: Have the witness take the  
11 witness stand. As soon as that's  
12 accomplished, bring the jury in.

13 (Whereupon, the jury entered the  
14 courtroom.)

15 THE CLERK: Case on trial continued.

16 Let the record reflect the presence of  
17 the defendant, defense attorney, assistant  
18 district attorney, official Mandarin  
19 interpreter for the defendant. 12 regular  
20 jurors, four alternates jurors all present,  
21 properly seated. All sides waive formal  
22 reading roll?

23 MR. KESSLER: Yes.

24 MR. SCHECHTER: Yes.

25 THE COURT: Good afternoon, ladies and

1 Guo Bang Liu - People - Cross 384  
2 gentlemen.

3 THE CLERK: The witness having resumed  
4 the stand, sir, you're reminded you were  
5 previously sworn this morning and you're  
6 still under oath. Do you understand that?

7 THE WITNESS: I do.

8 THE COURT: You may continue.

9 DIRECT EXAMINATION CONTINUED

10 BY MR. KESSLER:

11 Q Mr. Liu, can you tell the members of the jury  
12 how long it was from the time that the first individual  
13 came up to you with the weapon while you were in the  
14 limo until the time you then got into the second car  
15 until you got out of the second car?

16 A The time is not clear to me. I don't recall.

17 Q Can you tell us whether it was more than one  
18 hour or less than one hour?

19 A I don't know what you mean when you say it  
20 was more than an hour or less than an hour.

21 Q Were you in the second car for more than one  
22 hour?

23 A I don't understand.

24 Q Do you know -- do you own a watch?

25 A I didn't wear a watch then.

1 Guo Bang Liu - People - Cross 385

2 Q I'm not saying -- but do you know how long  
3 one hour is on a watch?

4 A An hour is 60 minutes.

5 Q Was it more than 60 minutes that you were in  
6 the second car?

7 A I'm not clear when I entered, when I --

8 THE COURT: Can you estimate how long  
9 you were in the car from the time that they  
10 put you into the car 'till the time that you  
11 got out of the car?

12 THE WITNESS: Approximately one hour.

13 Q Now, during that time, how long were the two  
14 people speaking to you?

15 A One spoke to me.

16 Q Excuse me?

17 THE COURT: One spoke to him?

18 A One spoke to me.

19 Q Did the driver ever speak to you?

20 A Yes.

21 Q What did he say?

22 A He told me not to make any noise.

23 Q Is that the only thing he ever told you?

24 A But the other one that's all he said, but the  
25 other one continuously talking.

Guo Bang Liu - People - Cross 386

Q And he was the one who asked for your documents?

A He asked me for my documents.

Q And did he ever ask you for any money?

A No.

Q Did he ever take any property from you?

A No.

Q Did he ever give you anything?

A No.

Q Well, did he --

A Yes. He gave me a paper. I don't know if he gave me one quarter or two quarter.

Q And on the paper were there phone numbers?

A Yes.

Q Now, when he spoke to you, was he angry or upset when he looked at your papers?

A Yes.

THE COURT: Well, which one is it?

Q Was he angry?

A I'm not quite clear.

Q Okay. Did he ever threaten you?

THE COURT: See, if you put two questions in one, you're not going to get a definitive answer.

1 Guo Bang Liu - People - Cross 387

2 MR. SCHECHTER: Well, okay.

3 Q Was he upset?

4 A I don't know his feeling.

5 Q Did he ever threaten you with harm?

6 A He pointed the gun at me and told me to get  
7 out of the car.

8 Q Was that the only gun that you saw?

9 A I saw one -- I saw one gun and then I saw the  
10 other person holding a gun next to the seat.

11 Q Would that be the driver?

12 A Yes. The one that -- the one on the  
13 passenger side had the gun on me.

14 Q Can you describe that gun?

15 MR. KESSLER: Objection; asked and  
16 answered.

17 THE COURT: Sustained.

18 Q After you got out of the car, you eventually  
19 went to your sister's house?

20 A Which car are you talking about?

21 Q The second car.

22 A After I left the car, I went to get help to  
23 look for --

24 THE COURT: He said eventually.

25 Q Did you at sometime --



1 Guo Bang Liu - People - Cross 388

2 THE COURT: Please. The question was  
3 did he eventually go to his sister's  
4 house.

5 THE INTERPRETER: I said to him his  
6 sister, but in Chinese, older sister and  
7 younger sister is two different versions so  
8 he said it's the younger sister.

9 THE COURT: What's the answer to the  
10 question?

11 A I went back to my mother's house. My mother  
12 and my sister lives in the same house.

13 Q Was that where Emily was?

14 A Yes.

15 Q Okay. Now, at any time after you were at  
16 Emily's house, did you ever have any conversation on the  
17 phone with anyone who asked you for money?

18 A Yes, my sister told me that --

19 Q Not your sister. Did you personally have any  
20 conversation with anyone?

21 A No. When I went back home, I didn't get a  
22 call yet.

23 THE COURT: All right. The answer is  
24 no.

25 Q Did you go with Emily to Henry Street on

1 Guo Bang Liu - People - Cross 389

2 April 2nd?

3 A No.

4 Q Did you ever see Emily prepare a can, a tea  
5 can that she put stuff in?

6 A I didn't -- I didn't see it.

7 THE COURT: That's the answer.

8 Q Were you in the house when Emily left to go  
9 to Henry Street?

10 A No.

11 Q Now, when you went to the precinct to look at  
12 those men in a separate room, do you remember that?

13 A Yes.

14 Q Now, prior to going there, did they tell you  
15 that --

16 THE COURT: Who's "they"?

17 Q Did the police tell you that people had been  
18 arrested?

19 A After I went back with my sister to the  
20 precinct, then the police told me that they had arrested  
21 the defendant.

22 Q Was that before you looked at the people in  
23 the line-up?

24 THE INTERPRETER: Can you give that  
25 question again?

1 Guo Bang Liu - People - Cross 390

2 THE COURT: Would you repeat the  
3 question please, reporter?

4 (Whereupon, the Court Reporter read  
5 back the requested portion.)

6 A When the police told me to go identify the  
7 defendant, that's when I saw.

8 Q And then at that time you knew that people  
9 had been arrested?

10 A Yes.

11 Q And when you spoke to your sister prior to  
12 looking at the line-up, did you discuss with her what  
13 the two people looked like?

14 A No.

15 Q Now, when you looked at the people in that  
16 room, do you remember how many people were in that room?

17 A Six persons were there.

18 Q Were they seated or standing?

19 A They were standing.

20 Q And you picked one of those people out?

21 A I picked number five.

22 Q Did you tell -- was there a police officer in  
23 the room with you when you looked at those people?

24 A No. Yes, there was a policeman.

25 Q And was there someone who translated for you

1 Guo Bang Liu - People - Recross391

2 into Chinese what he said?

3 A Yes.

4 Q Do you remember telling that police officer  
5 that number five was the driver of the car.

6 A I only know that I picked number five. I  
7 didn't say that he was the driver.

8 Q You never told that police officer that he  
9 was the driver of the car?

10 A No.

11 MR. SCHECHTER: Okay. I have no further  
12 questions, your Honor.

13 THE COURT: Any redirect?

14 MR. KESSLER: Just one question.

15 REDIRECT EXAMINATION

16 BY MR. KESSLER:

17 Q Did the police tell you what number to pick  
18 or did you pick that number on your own?

19 A No. I picked him out myself.

20 MR. KESSLER: Nothing further.

21 RECROSS-EXAMINATION

22 BY MR. SCHECHTER:

23 Q How long were you in that room prior to  
24 picking out a number?

25 A Very fast. I saw him immediately.

1 Jin Hao Liu - People - Direct 392

2 MR. SCHECHTER: Nothing further, your  
3 Honor.

4 MR. KESSLER: Thank you.

5 THE COURT: All right. You can step  
6 down.

7 MR. KESSLER: People call Jin Hao Liu.

8 J I N H A O L I U, a witness called on behalf of the  
9 People, after having been first duly sworn by the Clerk  
10 of the Court, was examined and testified as follows:

11 DIRECT EXAMINATION

12 BY MR. KESSLER:

13 Q Miss Liu, take a look at me, okay, and I'm  
14 going to ask you some questions. Try not to be nervous.

15 THE INTERPRETER: I want to ask her if  
16 she understands me.

17 Q I ask you if you could talk to the  
18 interpreter for a minute and see if you understand each  
19 other.

20 THE INTERPRETER: Okay. We're fine.

21 Q Miss Liu, just keep your attention focused on  
22 me for a few minutes. How old are you?

23 A 22 years old.

24 Q What do you do for a living?

25 A I'm at home now taking care of my daughter.

1                   Jin Hao Liu - People - Direct 393

2           Q       Were you ever -- did you ever do anything  
3 other than take care of your daughter? Before that what  
4 did you do?

5           A       No, I haven't done any work.

6           Q       How about being a student? Were you ever a  
7 student?

8           A       Yes.

9           Q       Okay.

10                   MR. SCHECHTER: Can the interpreter just  
11 speak up a bit?

12                   THE COURT: You mean the English part of  
13 it?

14                   MR. SCHECHTER: Yes.

15                   THE COURT: Would you please speak up?

16           Q       Back on March 31st of 1995, on that date were  
17 you living in New York City at that time?

18           A       Yes.

19           Q       And what were your plans for the day of March  
20 31st, 1995?

21                   THE COURT: Excuse me just a moment.  
22 Would you step back please so the jurors can  
23 see the witness?

24           Q       The question was what were her plans for  
25 March 31st, 1995?

1                   Jin Hao Liu - People - Direct 394

2           A       I planned to go to the airport to meet my  
3 brother and sister-in-law coming into New York.

4           Q       And about what time do you recall that you  
5 were planning on meeting them at?

6           A       I planned to meet them around 9, between 9  
7 and 10 o'clock.

8           Q       And how did you get to the airport that day?  
9 I called for limousine service.

10          Q       Do you know the name of the limousine  
11 service?

12          A       Lincoln.

13                   And did there come a time that you arrived at  
14 airport on March 31st, 1995?

15          A       Yes.

16                   And when you got there, who if anyone did you  
17

18          A       When I went there, I waited a little while  
19 and then I saw my brother and sister-in-law.

20          Q       And after you saw your brother and  
21 sister-in-law, where did you go next?

22          A       After I met my brother and sister-in-law, we  
23 were planning to go back home.

24          Q       Okay. And how were you planning on going  
25 back home?

Jin Hao Liu - People - Direct 395

A We were ride on the Lincoln limousine.

Q Can you tell us what if anything occurred while you were riding in the Lincoln limousine?

A After we were in the car, in a short period of time, there was another car came upon us.

Q And how did that car come to block you?

A They block us in the front of the car. One person came out and pointed a gun at us.

Q How many people were in the other car that blocked your car?

A There were two.

Q And what occurred when they got out of their car?

A After they got out of the car, we went over to the Brooklyn Bridge and they let my brother go.

Q Let's talk about the car that blocked yours. How many people were in your car and how many people were in the other car?

A My car had four persons. The other car had two persons.

Q Tell me about what happened immediately after your car was blocked?

A They told me to get out of the car and go into their car.



Jin Hao Liu - People - Direct 396

Q And did they have anything in their hands at that point?

A Yes. One of them had a gun in his hands.

Q Did you see if the other person had a gun?

MR. SCHECHTER: Objection, your Honor.

THE COURT: Overruled.

A It was very dark and I was very scared so I didn't notice.

Q The person that you saw that had the gun, what if anything did that person say?

A He told me to get into their car and not to say anything.

Q What if anything did you do?

A So, so we didn't make any noise and my brother asked him what are you going to do to them.

Q Did you ever get into their car?

A Yes.

Q Had you ever seen either of these men before?

A No.

Q What if anything happened once you were inside the car with these men?

A When we got in the car, they asked me if I just arrived in this country. And they asked my brother.

1                   Jin Hao Liu - People - Direct 397

2                   MR. SCHECHTER: Your Honor, I'm going to  
3                   -- the term "we". Which one are we talking  
4                   about?

5                   THE COURT: If possible, try to  
6                   ascertain that.

7                   Q       Well, did both of the men speak or did one of  
8                   the men speak?

9                   A       One spoke.

10                  Q       The man that spoke, what did he say?

11                  A       He asked my brother if we were new immigrants  
12                  and they asked to look at our passports.

13                  Q       And did your brother show them the passports?

14                  A       Yes.

15                  Q       After your brother showed the passports, what  
16                  happened next?

17                  A       They looked at it for a long time and then  
18                  they gave it back to my brother.

19                  Q       Did they say anything when they gave it back  
20                  to him or did he say anything?

21                  A       No.

22                  Q       What occurred after they -- after he handed  
23                  back the passports?

24                  A       They -- they -- when they gave us back --  
25                  when he gave us back the passport, then they drove off

1                   Jin Hao Liu - People - Direct 398

2           to Brooklyn Bridge and let my brother go.

3           Q       After they let your brother go, where if  
4           anyplace did you go?

5           A       I don't know where we went, but I know we  
6           went to a basement.

7           Q       Who was with you at that point in time?

8           A       Just myself and my sister-in-law.

9           Q       The two men that were with you in the car,  
10          did they go into the apartment with you or did they stay  
11          in the car?

12          A       Yes.

13          Q       Yes to they stayed in the apartment?

14          A       Yes, they went into the apartment.

15          Q       What happened once the two men and you were  
16          inside the apartment basement?

17          A       After we went in together, they asked me for  
18          telephone numbers.

19          Q       After they asked you for telephone numbers,  
20          what happened?

21          A       That time I didn't give them phone numbers.

22          Q       After you didn't give them the phone numbers,  
23          what happened next?

24          A       After, after he did --

25                   THE INTERPRETER: Have the question

1 Jin Hao Liu - People - Direct 399

2 again?

3 MR. SCHECHTER: Your Honor, could we do  
4 that outside the jury?

5 THE COURT: I'm sorry?

6 MR. SCHECHTER: She has a question.

7 MR. KESSLER: Want me to repeat the  
8 question?

9 THE INTERPRETER: Yeah, repeat the  
10 question.

11 Q Can you tell me what happened immediately  
12 after you wouldn't give them the phone numbers they  
13 wanted, the very next thing?

14 A Then they didn't say anything. They asked me  
15 if I was hungry or not. If you're hungry, you can help  
16 yourself to food.

17 Q Now, how many people are in the basement  
18 apartment at this time?

19 A That time there was two people.

20 Q Other than you and two or including you?

21 A Including myself there were four persons.

22 Q Did anyone else ever arrive other than the  
23 four of you who were there?

24 A Of the two, the two male that went into the  
25 apartment with us, he left and exchanged another person

1 Jin Hao Liu - People - Direct 400

2 in the basement to come into the basement.

3 Q The other person that came into the basement,  
4 can you describe that person's physical appearance  
5 generally?

6 A No, no.

7 Q Was the person that came into the apartment  
8 taller or shorter than the two people that were already  
9 there?

10 A He was shorter than the one that left.

11 Q Was he heavier or skinnier than the person  
12 that left?

13 A Heavier.

14 Q Now, the person that remained, was the person  
15 that came also shorter and heavier than the person that  
16 remained?

17 THE INTERPRETER: The person?

18 Q The person that stayed in the apartment was  
19 this new person also shorter and heavier than that  
20 person?

21 A He's taller.

22 Q Who's taller?

23 A The person that stayed is taller than the one  
24 that came in to replace the second one.

25 Q This person that left, after they left, how

1                   Jin Hao Liu - People - Direct 401

2       many people were in the apartment?

3           A       Four persons.

4           Q       The person that you said was the taller one  
5       of the two men, is that the person that was initially in  
6       the car with you?

7           A       Yes.

8           Q       And the person that's shorter and heavier,  
9       was that the person that came later?

10          A       Yes.

11          Q       I'm going to ask you to take a look around  
12       this entire courtroom from that wall to that wall, from  
13       that wall to this wall and ask if you see either one of  
14       those two men in this courtroom right now.

15          A       Yes, that one.

16          Q       Could you just describe an article of  
17       clothing that person you're pointing at is wearing?

18          A       He's wearing a green shirt.

19                   THE COURT:   Indicating the defendant.

20          Q       The person that you're pointing at with the  
21       green shirt on, is that the person you're describing as  
22       the taller person or the shorter person?

23          A       It's the tall one.

24          Q       And the person that you're pointing at, was  
25       that one of the two people that you initially saw in the

1 Jin Hao Liu - People - Direct 402

2 car that you were driving in?

3 A Yes.

4 Q Now, tell us what happened after they had  
5 asked you if you needed something to eat.

6 A I -- I went and ate a small portion of food.

7 Q That night, where did you stay that night?

8 A I was in his -- I was in their basement.

9 Q Did you sleep at all that night?

10 A No.

11 Q Could you tell us what if anything happened  
12 the next morning?

13 A He said -- he said you haven't slept at all.

14 Q When you say he --

15 THE COURT: Who's he?

16 Q Let's call them the tall person and the short  
17 person?

18 A The tall person said you haven't slept all  
19 night. Ask your sister-in-law to come in the room.

20 Q What happened next?

21 A So he said you haven't slept at all so he  
22 took my sister-in-law into another room.

23 Q When your sister-in-law went into the other  
24 room with the tall person, where were you at that point?

25 A I was in the original room in the basement.

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2 Q Who else was with you in that room?

3 A With the heavier one with me.

4 Q What if anything happened with regards to you  
5 and the heavier person after they had left to the other  
6 room?

7 MR. SCHECHTER: Objection, your Honor.

8 THE COURT: Overruled.

9 A The short one, the short heavy one took all  
10 my clothes off.

11 Q The guns that you had seen earlier, were any  
12 of them in the room at that point in time?

13 MR. SCHECHTER: Objection to the term  
14 guns.

15 MR. KESSLER: Gun. I'll change it to  
16 gun.

17 Q The gun you had seen earlier was the gun in  
18 the room at that point in time?

19 A There's another person that was holding a  
20 gun.

21 Q When you say another person are you talking  
22 about the taller one or the shorter one?

23 MR. SCHECHTER: Objection, your Honor.

24 THE COURT: Overruled.

25 A The tall one.



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Q Do you know -- I'll ask this question.

When you got back to the basement for the first time when you were in the basement, did you ever see a gun there?

A In the beginning we arrived in the basement, the shorter one had the gun.

Q Did you ever see the gun that night when you did not sleep?

A When I didn't sleep all night, I did not see a gun.

Q The next morning did you ever see a gun?

A The next morning I did see a gun.

Q Where did you see the gun?

A I saw it in the room.

Q Where in the room?

A When he slept, he put the gun under the pillow.

THE COURT: When you say "he," who do you mean?

Q When you say "he," are you referring to the person you pointed out in the courtroom or the other one?

A The tall one.

Q Is that the person you pointed out in this

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2 courtroom?

3 A Yes.

4 Q When he went into the other room, did you see  
5 him carry the gun with him?

6 MR. SCHECHTER: Objection, your Honor.

7 There's been no testimony of --

8 Q The question was you said you saw a gun at  
9 one point with the tall man. My question is when he  
10 went into the other room, did you see the gun with him  
11 at that point in time?

12 A Yes.

13 Q Now, we were up to the point in time where  
14 you indicated the shorter man was in the room with you.  
15 Describe what happened with you and the shorter man in  
16 that room.

17 A He took all my clothes off and he raped me.

18 Q When you say he took off your clothes, what  
19 happened right after he took off your clothes? You have  
20 to describe it in detail if you can.

21 MR. SCHECHTER: Your Honor, I'm going to  
22 object to this whole line of questioning.

23 THE COURT: Overruled.

24 A After he took my clothes off, he took off his  
25 clothes.

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2 Q And after he took off his clothes, what  
3 exactly did he do?

4 A After he took his clothes off, he put his  
5 penis into my vagina.

6 Q Did you touch you at all with his hands?

7 A He used -- he touched my upper part.

8 Q When you say your upper part, would you  
9 describe that a little bit more in detail?

10 A My breast.

11 Q Did there come a point in time that they  
12 returned from the other bedroom?

13 A Yes.

14 Q When your sister-in-law returned with the  
15 taller man, what happened next?

16 THE INTERPRETER: I have to ask her to  
17 make it short.

18 Q I'll tell her. Keep your answers short so  
19 the interpreter will answer. I'll then ask you a  
20 follow-up, okay?

21 A Yes, sir.

22 Q Tell me what immediately happened after the  
23 tall person and your sister-in-law came back from the  
24 room?

25 A My sister-in-law came back near me. When my

1 Jin Hao Liu - People - Direct 407

2 sister-in-law came back into the room, she came next to  
3 me but they wouldn't let her be near me.

4 Q And what happened next?

5 A Then he asked me to go to another room with  
6 him.

7 Q Who asked you?

8 A The tall one.

9 Q The person you had pointed out with the green  
10 sweatshirt?

11 A Yes.

12 Q What exactly did he say to you and what  
13 exactly did you do?

14 A He asked me to go into the other room and  
15 asked me to take my clothes off.

16 Q And what if anything did you do?

17 A He asked me so I took my clothes off.

18 Q What happened after you took your clothes  
19 off?

20 A Then the same thing. He took his clothes off  
21 and he did the same thing as the other person. He put  
22 his penis into my vagina.

23 Q What happened after he put his penis into  
24 your vagina?

25 A There was something pressing against my head

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2 and I said, it's very painful. Then he removed it.

3 Q Were you on the bed, on a floor? Tell us  
4 where you were.

5 A I was on the floor.

6 Q And was this thing that was pressing against  
7 your head also on the floor or on the wall?

8 MR. SCHECHTER: Objection.

9 THE COURT: Overruled.

10 A Yes.

11 Q To which one?

12 THE INTERPRETER: On the floor.

13 Q Did he touch you with his hands at all?

14 A No.

15 Q Did he have any conversation with you at all  
16 while you were in that other room?

17 A No.

18 Q When you -- did there come a time that you  
19 left that room with the taller man?

20 A Yes, there's a time I left that room and went  
21 back to the original room.

22 Q Did there ever come a time that you gave  
23 either one of these people phone numbers to contact your  
24 family?

25 A Yes. Later on I gave my home phone number.

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Q Did you ever speak on the phone when you were in that basement apartment?

A They asked me to write the phone number down and they did the calling.

Q Did you ever speak on the phone at all after they did the calling?

A Yes. After he finished calling, I called my home with my sister.

Q And were the men still there when you spoke to them?

A Yes, yes, they were there. Spoke a little while, then I spoke a little.

Q Could you hear the conversations they were having on the phone with the person on the other end?

A I understand a little bit. They were asking my sister for money.

MR. SCHECHTER: Objection, your Honor.

THE COURT: I'm sorry?

MR. SCHECHTER: Objection. That was not the question.

MR. KESSLER: I asked if she heard. She said yes. I'll ask her a follow-up.

Q What if anything could you understand about the conversations that were taking place?

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2 MR. SCHECHTER: Objection.

3 THE COURT: Well, sustained to the form  
4 of the question.

5 Q Did you hear the conversations that were  
6 taking place with the person on the phone and the person  
7 on the other end?

8 MR. SCHECHTER: Objection.

9 THE COURT: You're asking if she heard  
10 what was said on the other end?

11 MR. KESSLER: I'm asking if she heard  
12 the person, the male voice on her end of the  
13 phone.

14 THE COURT: That I'll allow.

15 A When he was speaking to my sister, I didn't  
16 hear it.

17 Q When you were speaking to your sister, what  
18 were you and your sister talking about?

19 MR. SCHECHTER: Objection.

20 THE COURT: Sustained.

21 Q What did you say to your sister?

22 A He asked my sister for money.

23 MR. SCHECHTER: Objection.

24 THE COURT: Sustained; not responsive.

25 MR. SCHECHTER: Ask the answer be

1                   Jin Hao Liu - People - Direct 411

2                   stricken.

3                   THE COURT: Strike it. Jury disregard.

4           Q       My question is simply what did you say to  
5       your sister when you spoke to her on the phone?

6           A       I asked my sister to give them money.

7           Q       Now, did there come a time when you finally  
8       left that basement apartment?

9           A       Yes.

10          Q       When you left the basement apartment, where  
11       did you go?

12          A       They drove me back.

13          Q       When you say they drove you back, did you go  
14       into a car after you left?

15          A       The tall one and the short one together drove  
16       us.

17          Q       Okay. How long were you driving for with the  
18       tall one and the short one.

19          A       Not too long. It's about two blocks away,  
20       two streets away.

21          Q       What happened when you got two streets away?

22          A       At that time there were a lot of people.  
23       There were a lot of policemen there.

24          Q       What happened when you reached the car  
25       reached two blocks away. Describe exactly what happened



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next.

A There was there were a lot of people there.

Q What were these people doing?

A They were policemen.

Q Did you know they were policemen at first?

A In the beginning I was very frightened. I wasn't very sure if they were policemen.

Q What if anything did you think at that point in time?

MR. SCHECHTER: Objection.

THE COURT: Sustained.

Q Describe how you were feeling at that point in time when you were still in the car with the tall one and the short one at the point these other men approached.

MR. SCHECHTER: Objection.

THE COURT: Sustained.

Q After you saw all these people, what's the next thing that you remember happening?

A At that time a lot of people outside. They had a gun and pointed at the tall one and the short one.

Q Did you ever see these people before that pointed the gun at the tall one and the short one?

A No.